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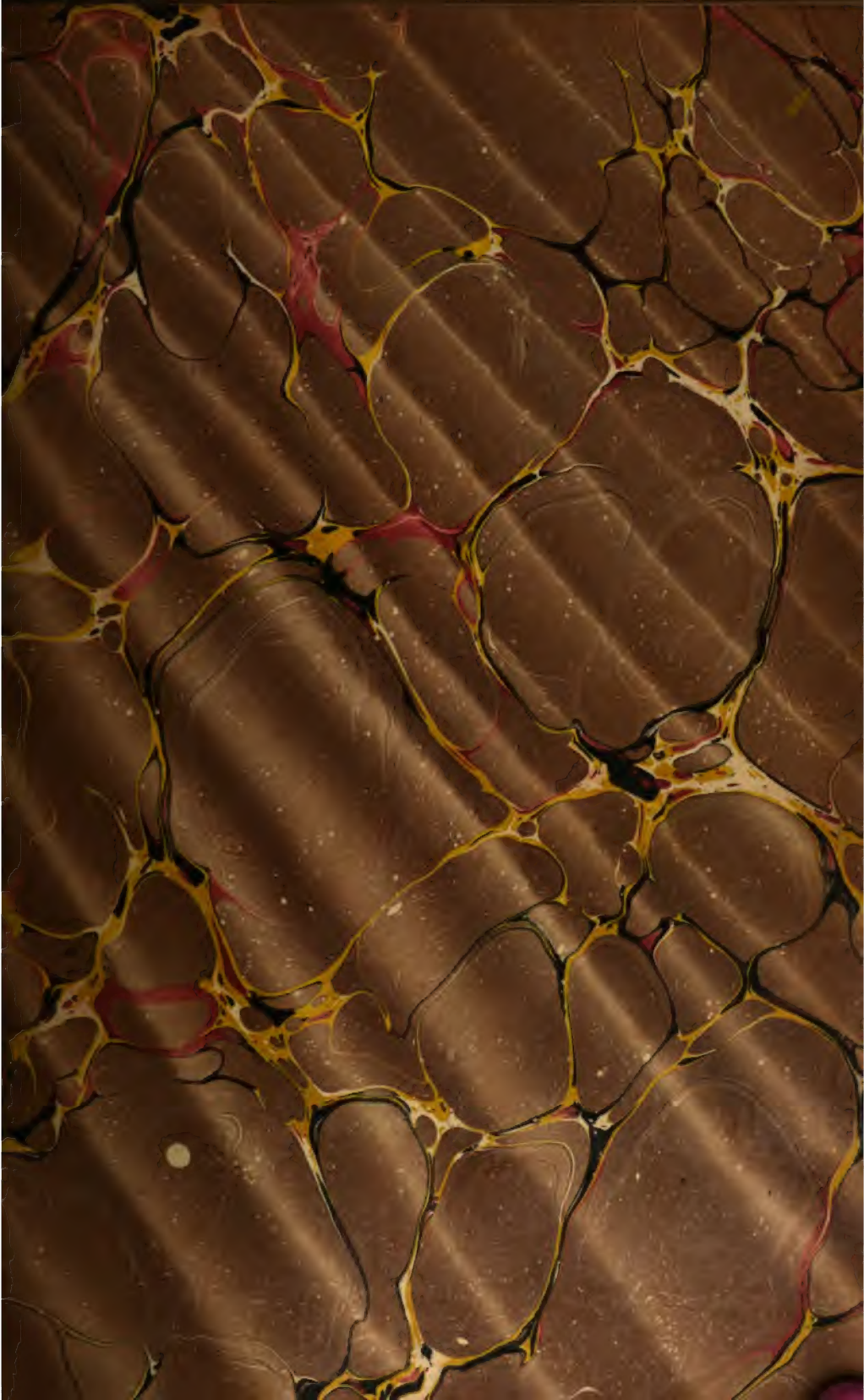

SPEECHES

AND

FORENSIC ARGUMENTS.

BY DANIEL WEBSTER.

VOL. II.

EIGHTH EDITION.

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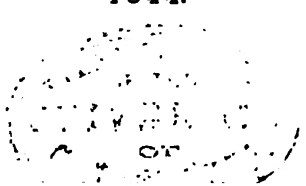

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INTRODUCTION

TO THE SECOND VOLUME.

It is now about five years, since the publishers of the present collection presented their fellow-citizens with the former volume of the Speeches and Forensic Arguments of Mr. Webster. It commanded the attention, which might have been anticipated from the reputation of the author; and the curiosity and interest thus excited were amply sustained, by the contents of the work. It is believed, that no volume has ever issued from the American press, better calculated to take a permanent hold of the public mind;—to be regarded as a choice specimen of excellence in the various kinds of intellectual effort which it embraced;—and to be consulted as a standard authority, on the great Political and Constitutional questions, which have agitated the public mind during the last twenty years. The estimation in which it was held from its appearance, may be safely inferred from the tenor of a very judicious and eloquent notice of it, in the eighteenth number of the American Quarterly Review; and the rapid sale of the edition has proved that the judgment of the critic was sanctioned by the reading community at large, not merely in this country, but in Europe. The critical journals of Great Britain have confirmed the estimate formed by his countrymen of Mr. Webster's professional and parliamentary talent, and have quoted his works as containing some of the best specimens of American forensic eloquence.*

The publishers now find themselves called upon for a second volume of the speeches and occasional addresses of Mr. Webster The five years since the appearance of the former volume have, as

* Quarterly Journal of Jurisprudence, for August, 1834.

is known to every one, been passed by Mr. Webster on the same elevated stage of public duty, on which he had before acquired a most enviable reputation. A series of the most important discussions in the Senate of the United States, in which he has borne a highly conspicuous part, has attracted the attention of the people throughout the Union. Those great Constitutional questions, which formed the theme of the closing speeches in the first volume, have been again the subject of strenuous contest, between the master minds of the country. Not inferior in interest to these are the speeches of Mr. Webster, contained in the present volume, in the financial controversy which has lately agitated, and still agitates, the country. Commencing with his argument in answer to the President's *veto* of the Bank bill, in 1832, down to the overwhelming refutation of the Protest, in 1834, they will all be found in the present volume. It contains also several other speeches, on subjects of less commanding interest, but characterized by the same high qualities. In addition to these parliamentary efforts, the publishers have introduced into the volume several occasional speeches, such as that delivered at a public dinner in New York, the address to the citizens of Pittsburgh, the eulogium on the character of Washington, the speech before the Convention at Worcester in 1832, with some others of a miscellaneous class.

The general aspect of the present collection will be found, in some degree, different from the former, in the range of topics. It was, at that time, the pleasing duty of the publishers, in preparing the first collection which had been made of the works of Mr. Webster, to introduce into it his admirable discourses at Plymouth, and Bunker Hill, that delivered on occasion of the death of Adams and Jefferson, and the law arguments which occupy a considerable space in the volume. The complexion of the present series is more uniform, as to topics and form of address, though infinitely rich and various in illustration, and in application to the fortunes of the Republic, of inappreciable interest. Every thing, or almost every thing, contained in the present volume, has been delivered by Mr. Webster, in the period which has elapsed since the former volume was published. It accordingly exhibits to us the action of his intellect, almost exclusively, on the great questions which have convulsed the country, in this highly momentous period of time.

It presents the operations of his mind, at the very meridian of its vigor, trained in the most strenuous exercises of the bar and the Senate-house, acting under the intensest excitement, and the responsibility of a commanding reputation already acquired, compelled, at every moment, not merely to struggle with the ablest competitors and opponents, but to equal himself, and sustaining at times upon his shoulders the weight of the almost severed Union. There is, perhaps, nothing, in the present volume, finished in a style so highly academic as the orations at Plymouth and Bunker Hill, unless we except the speech at the New York dinner, which is surpassed by nothing of the kind which Mr. Webster has ever produced. But the speech in reply to Mr. Calhoun, and the speech on the Protest, are like leaves of the Constitution. They are authorities rather than illustrations. While we are engaged in perusing them, every thing like mere discourse, however ingenious, forcible, or ornate, seems comparatively insipid.

At no period, it is believed, since the adoption of the Constitution, has either House of Congress contained a greater number of very eminent men, than the Senate of the United States for the last four years. At no period have questions so important been discussed, or principles so fundamental to the Government been maintained and contested. At no period has a succession so rapid of the most powerful and animated harangues commanded the attention of the people; and the publishers think they may add, without being deemed unjust to his eminent contemporaries, that, among all the powerful voices with which the Senate-chamber has resounded, none has been heard, with such effect, by the great mass of the people throughout the country, as that of which the record, inadequate at best, is now offered to the reading world, in the following pages. That, in a country divided into parties, which are brought in powerful collision with each other, and led by the most accomplished and skilful champions, there should be great diversity in the judgments formed of distinguished men, is a matter of course. It is scarcely possible to form a perfectly candid estimate of the intellectual power, exerted in the defence of a cause which we greatly disapprove, and in the support of principles which we deem wholly false. There is, however, a meed of applause which men of discrimination and liberality never withhold

from a rival, and even an opponent. There is an impression produced by the exertions of commanding talent, even on the mind least prepossessed in favor of the individual by whom it is manifested, which is not easily mistaken. We presume, if those who, from every part of the country, have watched, with the greatest attention and interest, the splendid displays of power, eloquence, and statesmanship, which have been made in the Senate, were called upon to designate the acknowledged leaders, that, after each one, according to his taste, opinions, and sectional prejudices, had named his favorite, it would be found that the second place was accorded to Mr. Webster, by all who did not claim for him the first; which a vast number, unquestionably, in every part of the country, would be found to do.

The position which Mr. Webster fills in the eyes of the country, by this general consent, is the more honorable to him, when it is recollected that it is the victory gained by talent, wholly unaided by those advantages of opportunity, which, to other men, have given official standing, influence, and political power. Mr. Webster came forward at a period when that ascendency, which New England possessed from the early settlement of the colonies, and which was strengthened by her agency in the great triumphs of the revolution, had passed away. Other portions of the country had grown up; the West was settled; the Virginian dynasty was in undisputed possession of the public favor; and new centres of political influence had been established, in which New England was allowed to have no share. Had he been a foreigner, barely naturalized, he would have come forward with less prejudice than as a New Englander of talent and promise. At the early age of thirty, and without preliminary training in the state assemblies, he rose at once, in the Congress of 1812, to an undisputed eminence; and it was said of him, even then, by one of the very few who could have disputed his rank, (Mr. Lowndes,) "that the North had not his equal, nor the South his superior." What might not have been his career, had he sprung from the other side of the Potomac! He would have succeeded Mr. Monroe, as inevitably as sunrise succeeds the dawn, and would have been thought to sustain, with increased lustre, the line of the great men of Virginia.

It is not merely that Mr. Webster has forced his way to the

exalted position which he occupies in the public mind, against the whole force of this prejudice, (the operation of which is unquestionably a subject of just complaint,) but he has also reared the fabric of his own reputation, without the fair and natural advantage of high official station. It is a somewhat singular fact, that, from the time Mr. Webster first crossed the threshold of public life, to the present hour, he has never owed any thing to executive favor, nor held of any body but the people. To many public men, Congress is the most advantageous theatre. Its action and reaction, its excitement, its collision, its public display, give the fullest scope to talent of the most popular cast. But it may be safely said of Mr. Webster, that even in the Senate of the United States, his powers are beyond his field. Brilliant as is his position, and unsurpassed as is his power, in the senatorial arena, no man can witness, and calmly analyze, the character of his efforts, without feeling that his intellect is above the contentious sphere of the mere partisan warfare, which is often waged, even there. It is impossible to repress the idea, that his largeness of view, his coolness, gravity, sagacity, power of investigation, and his dignified eloquence, could only act to their greatest advantage in a high executive sphere; in the conduct of arduous negotiations with foreign powers; in disposing of great questions of public policy; comprehending within one grand survey the various interests of this mighty country; infusing a lofty patriotism into the people, by public addresses, conceived and executed with real ability, essential force, and good sense, and exhibiting to foreign nations a noble specimen of the sovereignty of intellect. No person would hesitate to admit, that there is nothing preserved in the archives of the Government, from the days of Mr. Jefferson and Mr. Hamilton down, which is not equalled by the reports of the committees of which Mr. Webster has acted as chairman; and that he would bring to any office known to the Constitution, and to any of its duties, a power, to say the least, never surpassed by any of the justly celebrated men who fill the highest places in our political history, and owe their fame to the opportunities of public appearance afforded by their station. We think it may be said, for instance, without injustice, of Mr. Jefferson, that, unless early placed in eminent station, by executive appointment, he would have filled a much narrower space in the public mind.

Had he been in the minority, he would have been comparatively undistinguished.

As Mr. Webster has enjoyed none of the advantages of executive station, so his system of political action, and his power and influence as a public man, are free from that narrowness and spirit of private arrangement, which grow out of long training in an organized majority. Nothing so effectually breaks down the elements of a public character, naturally promising, or so soon matures the corruption of one naturally weak, as regular promotion, through all the gradations of rank, in an organized and dominant party. The stronger the party is, the more fatal its influence on a true statesman-like generosity of character. The only desire naturally felt by its members, is to keep in the ranks. All generous ambition of personal excellence is subdued; for personal excellence, too strongly marked, is embarrassing, invidious, and dangerous. The successive posts of trust are attained by favor; are secured by the arts of private intercourse; by dutiful attendance on the head of the party; laborious intercourse with its prominent leaders; and a spirit-crushing correspondence with its infinity of village great men. There is no time, no courage, no place, no call for efforts of independent power; and a man reaches, at last, the object, in the regular line of promotion, a wonder to the community, and a still greater wonder to himself. It is, indeed, a noble and heart-stirring spectacle, when a crisis comes on, to see the long array of politicians of this description, crowding together in trepidation, like a fleet of gun-boats, at the sight of an enemy's frigate, waiting for some statesman of the true stamp—self-formed, self-poised—the work and the man of the people,—to bear down, in his pride and strength, to meet and vanquish the foe. It is a singular and a most incontestable fact, that the present Administration, but for the voice of Mr. Webster, and those of his friends who rallied under him, would have been left in a state of the most pitiable weakness, in the great war of nullification. But for him, the powerful champions of that doctrine, in the Senate of the United States, would have trampled the policy of the Administration, and with it the supremacy of the Constitution, into dishonorable fragments. One cause of the prodigious power, with which popular revolutions in monarchical

governments move forward, is, that they bring on, by the nature of the case, an instant collision between the men of routine, the men of place, the men raised by favor and trained in the bureaux, with the men of self-formed characters, who come fresh to affairs, urged forward by the noble impulses of duty and patriotism; speaking out of the fullness of generous hearts; assuming the posts of danger or of labor assigned them by the acclamations of the people. Official experience and etiquette, habits of authority, and all the curious network of personal intercourse and correspondence, fly to pieces, before the breath of such men, like cobwebs before a storm. What could the place-men and veteran ministers of Charles I. effect against the great popular spirits of the commonwealth? In lieu of all other capacity, that of a blind and melancholy firmness alone remained,—a principle, at best, not of efficient action, but of heroic sacrifice. What could the accomplished courtiers, who formed the cabinet of Louis XVI., effect against the Mirabeaus and the Lafayettes? or how long would the adroitest chancellor of either of the continental empires, at the present day, stand in a strenuous contest with a powerful mind, in a revolutionary chamber of deputies? The robes of office, worn too long, give a mincing gait to the politician; and it is not the least of Mr. Webster's titles to the sympathy of the people, that they have never, for a moment, impeded the bold strides of his intellect. Nor has he been less a stranger to the emoluments than the honors of executive station. More work has been done by him for the public, since his first entrance upon political life, than by any six official functionaries, of the ordinary class, during the period of an administration; but they have been the voluntary services of a great parliamentary leader, unrewarded with office, and unpaid by gold. Not a dollar has passed, by executive gift, from the treasury into his hands, or those of any person, however remotely connected with him, or in whose interest he might be supposed to be personally concerned.

This is not mentioned as if any discredit attached to the enjoyment of the honors and emoluments of office, when office is worthily obtained, and filled to the advantage of the country. But there is a point on which we feel disposed, for a moment, to dwell, as one of no little importance. We live under a Govern-

ment, which, as every one, of course, knows and understands, is popular,—organized by popular elections, recurring at short intervals. But the spirit and genius of the Government are still more popular than its form. There are parts of the Government, designed to be removed, by one or two degrees, from immediate popular interference. Such is the provision for the choice of the President by electors; such is the constitution of the Judiciary, holding by a life-tenure; such is the six years' term of the Senate. But it is next to impossible to give to either of these Constitutional provisions any efficacy beyond that which popular sentiment, at the time, accords to it. The intervention of the electoral college is known to be purely nominal. It is profoundly observed, by Mr. Webster, in his Worcester Speech—"We have been accustomed to venerate the judiciary, and to repose hopes of safety on that branch of the Government. But let us not deceive ourselves. The judicial power cannot stand, for a long time, against the executive power. The judges, it is true, hold their places by an independent tenure; but they are mortal. That which is the common lot of humanity must make it necessary to renew the benches of justice. And how will they be filled? Doubtless, Sir, they will be filled with incumbents agreeing with the President in his Constitutional opinions. If the court is felt as an obstacle, doubtless the first opportunity, and every opportunity, will be embraced, to give it less and less the character of an obstacle. Without pursuing these suggestions, I only say, that the country must prepare itself for any change in the judicial department, such as it may deliberately sanction in other departments." Nor is it only in this way, that the principle of popular control over the judiciary is carried out. We have seen, within three years, the mandate of the court rendered nugatory by the steady refusal of the executive, strong in the support of a dominant party, to carry it into effect. The senatorial term presents a barrier somewhat more efficient against rapid fluctuations of what is called the popular will, (that is, small changes of majorities at contested elections,) but passing events teach us how seriously this is menaced.

These reflections all establish our point, that the Government, popular in its theory, popular in its conception, and in the rightful

action of the system, is still more popular in its actual operation. It is popular even in its frequent vergings toward a concentrated executive despotism; for it is only when the head of the Government is also the head of an overwhelming party majority, that he is strong enough to stretch beyond just limits the powers of his office. This being the case, flattery of the people is not merely the demagogue's accustomed theme, but the temptation to espouse popular prejudices, to inveigh against even just exercises of constituted power, to disparage institutions, and to court temporary opinions, is too strong to be resisted, except by firmly-balanced minds, warmed with a true patriotism. It will accordingly be found, that this is the path to advancement most frequently pursued. The people have been most flattered by those who have most systematically and boldly assailed all those Constitutional safeguards, originally devised to protect the people from the abuses of executive power. So artfully contrived is this plan of popularity, that the real friend of the people, the friend of the Constitution and the laws, in which the safeguard of their liberties exists, is apparently thrown upon unpopular ground, and compelled, at times, to resist their own hasty coöperation in measures resulting in their own injury.

The discharge of this duty, in which the very heroism of politics consists, is the touchstone of the statesman; and in nothing do Mr. Webster's public character and course of political conduct appear in so noble and commanding a light. On all occasions, he has been the great champion of the Constitution and laws; the supporter of the institutions of the country, and of its great fundamental interests; and from his first appearance in public life, to the present day, his writings may be searched in vain for a single attempt to play the demagogue. And yet who could have played it, we were about to say, with a better right? Who could have played it with a better pretence? Born on the very frontiers of civilization, the son of one of Stark's rangers, a captain of the revolutionary war, a poor boy, with no other education than that of the village schools of New England,—struggling hard to obtain even the inconsiderable advantages for improvement which were within the reach of any one in his part of the country,—owing nothing to position, nothing to opportunity,

nothing to patronage, but every thing to Providence, to his own strong mind and resolute purpose,—why should not such a man enter the wide, the straight, the beaten, easy path which leads to aggrandizement? He is a republican of the purest school: the true whig blood of the revolution flows in all his veins; and he has followed his father to the labors of the plain New England husbandman. Why are not the catchwords of a false and party republicanism forever on his lips? He was born and reared in poverty; never was, nor will be rich; and owes the honorable competence he enjoys to the strenuous efforts of a most laborious profession. Why does he not join wealthy office-holders in bewailing the oppression of the people, and in raising that delusive cry, "the hatred of the poor against the rich," which he denounced in the Senate-chamber, in the hearing of some who had given countenance to that detestable fraud? Why does not he throw himself into the circle of those who are stimulating and leading on the people to a mad crusade against the people's Constitution and laws? Is he so blind as not to see that that way lies the road to honor, office, and power? Is he so wanting in discernment that he wanders from this path through ignorance? Are there so few examples to guide his choice? Not so. Mr. Webster is a patriot. He would find no pleasure in influence and place obtained by fomenting prejudices, by sowing alienation and hatred among the members of the community, by exciting the people to tear down the fabric of their own liberty, and by making the institutions odious in which it is organized, and, so to say, enshrined. It is not merely that his understanding is too just and manly to adopt and repeat these odious sophistries, but his moral sense revolts from them, as mean and treacherous.

The people, we apprehend, do too little justice to such a course, and do not sufficiently consider how much they owe to such a man. Suppose the power, which Mr. Webster has employed to sustain and build up, had been exerted to subvert and destroy; suppose he, too, with all the resources of his understanding, had endeavored to stimulate those less favored of Providence against their fellow-citizens who have been successful in life; suppose he had endeavored to propagate discontent and disaffection, elevating himself by persuading the people they are wretched,

and making them so by making them feel so; suppose he had contributed to embarrass every man's business, by empirical attempts upon the currency, under the flimsy but popular pretext of substituting gold for paper; suppose he had lent his aid to paralyze all the industrious interests of the country, and arrest every measure for its internal improvement, by propagating cheap metaphysical refinements on Constitutional powers; suppose he had raised his voice against the Judiciary and against the Senate, and looked coldly on while the Union was assailed, an ostentatious patron of the rights of the States, and lukewarm friend of the rights of the United States; suppose Mr. Webster had done this, and thus deprived the people of a most efficient, real friend, and the cause of the Constitution of its most powerful advocacy;—should we have stood where we now stand? Would not Nullification, struggling with the official power of the President, adorned and recommended by its eloquent and ingenious champions, and unexposed in its true nature, have commanded more of the sympathy of the people? Would not regulated, Constitutional liberty have passed under a cloud, in the loss of such a friend, under the influence of such an opponent? Would not every man, who has any property, have felt that it was shaken, and every one, who relies upon the conservative principles of the Constitution, have begun to despair of their efficacy? Unquestionably. And if the country still stands unshaken on its foundations, the people should understand that they owe it partly to the irresistible power of argument, the noonday light of illustration, which have been shed upon the great principles of the Constitution, in the late fearful crisis. That we yet have a country to be the subject of these desolating experiments, is in no small degree owing to the ability, with which they have been exposed and counteracted.

In the variety of speeches and addresses contained in the present volume, we may distinguish two or three classes.

The first are the Constitutional, unquestionably those in which the feelings, as well as powers, of Mr. Webster have found their most grateful exercise. Events seem, by a singular coincidence, to have prepared him, in a peculiar manner, for the noble province of the champion of the Constitution. He had, at a very early

period of his professional career, in the Dartmouth College case, and subsequently in the great steam-boat cause, and in other cases involving the leading principles of Constitutional law, been called to explore its doctrines to their foundation. They are doctrines of a nature which require the lawyer's precision and discrimination. Loose and popular views cannot be relied upon, in drawing the delicate line between the powers granted by the Federal Constitution and the powers reserved to the States. They must be distinguished, compared, reconciled, and limited, by a severe professional logic. But logic alone is not enough. Constitutions are historical documents: their formation and adoption are historical facts; and a judgment well disciplined in historical studies is as necessary as the talent of perception or argument. Nor must a sort of patriotic moral sense be wanting. The politician whose soul is not warmed with an elevated and comprehensive patriotism, knows nothing of the Constitution; he does not feel the value of the objects for which the Constitution was framed. The qualities we have enumerated are found in the closest union in Mr. Webster's Constitutional speeches—the sternest dialectics—a species of historical tact, as well as an entire familiarity with historical records,—and a love of the Union which takes the heart to the work of its defence. The student of Constitutional law will ever resort to the speeches of Mr. Webster, in this department, with the same deference that he pays to the numbers of the Federalist and the opinions of Chief Justice Marshall.

The speeches on the financial policy of the Administration, and the Bank question, are of a character somewhat different, although the reply to the Protest is also a Constitutional argument. Mr. Webster's knowledge of the whole question of finance is second to that of no man in the country. He was a leader on this subject, upon his first entrance into public life, in the debates on the charter of a bank in 1814, and the years immediately following. For unadorned and close reasoning, on a financial question,—for luminous exposition of a subject wrapped up in mystery, by the declamations of the party press,—Mr. Webster's report, as chairman of the committee of finance, at the last session of Congress, may be quoted as a model. But even in the speeches of this class, it is pleasing to see the strong patriotic and Constitutional bent of his

mind. The Bank, in itself, is comparatively nothing. As an instrument of finance, it is convenient; as the fiscal agent of the Government, it is probably indispensable; and these topics are properly enforced. But it is the distress of the country, produced by this unhappy tampering with the currency; the loss of a twelvemonth's prosperity; the ruin of thousands; the embarrassment of hundreds of thousands;—these are the topics which perpetually force themselves upon his mind. Nor these alone; he beholds, in the treatment of the stockholders and directors of the Bank, a violation of the law, a breach of the spirit of the Constitution, an absorption into executive discretion of powers, intended to be exercised by other functionaries; and these higher views give a peculiar warmth and solemnity to his appeals.

The miscellaneous speeches present a great variety of the most interesting subjects of discussion. In this class we include his addresses at the great public festivals, offered by his admiring fellow-citizens, as expressions of their gratitude for his defence of their Constitutional liberties. It will be recollected, that, at the close of the session of 1831, Mr. Webster was invited by a large number of the most respectable citizens of New York and its vicinity, including among them distinguished gentlemen of both political parties, to meet them at a festival prepared as an expression of their satisfaction, at the part which he had taken in the great Constitutional struggle, that had occurred in the Senate of the United States. There were persons uniting in this tribute of respect and gratitude to Mr. Webster, who had perhaps never acted together before, in any matter connected with party politics. The principle and the feeling, which had brought them together for the purpose named, are emphatically stated in the address made to Mr. Webster, by the president of the day, (Chancellor Kent,) and which we have prefixed, as the proper introduction, to the report of Mr. Webster's speech, at the commencement of the present volume. It was a principle of attachment to the Union, and a feeling that the maxims of Constitutional law, on which the stability of the Union rests, had, "by the discussions in the Senate, and the master genius that guided them, been rescued from the archives of tribunals, and the libraries of lawyers, and placed under the eye, and submitted to the judgment, of the American

people. *Their verdict is with us, and from it their lies no appeal.*" The speech of Mr. Webster, which we have already ventured to name as one of the very happiest of his efforts, is conceived in the spirit of the occasion. It is the outpouring of a full heart, the breathing of a pure patriotism, kindling with the sentiment of the worth of the Union, as illustrated in the history, the growth, and the prosperity, of the great metropolis in which he spoke, and in the lives and services of the patriot statesmen, who, in all the States, contributed to establish the Independence and frame the Constitution of the UNITED States. What citizen of New York but must have glowed with honest pride, as Mr. Webster unrolled, on this occasion, the long record of her illustrious men! What lover of the Union but must have caught new views of its inestimable value, as its connection with the prosperity, the industry, and the whole social system of the country was pointed out with the eloquence of a master! Not less significant, appropriate, and instructive, is the delineation of the character of Washington, delivered on the 22d of February, 1832, before a company assembled to commemorate the birthday of the father of his country. The character of Washington is there lifted up from common-places; its strong points cleared away from the mere generalities of eulogy; the distinctive features which marked him pointed out; and that *beau ideal* of the perfect patriot, which exists under his name, in every American imagination, shown to have its original, in the life and conduct of our Washington.

It is not our province to enter into any criticism on the style of Mr. Webster's addresses. He is himself, in several instances, in no degree responsible for their style, in the common acceptation of the term. Not one of the speeches contained in this volume is of a character to admit of being written beforehand. They are taken by the publishers as found in the reports of the day, in the contemporaneous newspaper and pamphlet form. In some cases, the publishers presume, of course, that the speeches, as printed, were written out by Mr. Webster, from his own brief notes and the minutes of the stenographer; in others, it is probable that the speech written out by the reporter may have passed under Mr. Webster's revision; but not seldom, as the publishers have reason to know, they have been obliged to content themselves with

the contemporaneous newspaper report, without the advantage of the slightest revision. There is, however, one feature, not so much of style as of manner, to which the publishers feel warranted in adverting; it is the dignified absence of personality in the speeches of Mr. Webster. His career has fallen on times of warm party collision; he has himself shared the inevitable fate of eminent talent, in being the object of hostility and attack. When called upon, in self-defence, to wield the weapons of sarcasm, he has shown that he can do it with terrific effect; but the entire series of his speeches does not present an instance of a voluntary personality. We do not commend this, however, as a great merit on the part of Mr. Webster, so much as we would notice the bad taste and the mistaken policy of the opposite course. It requires power to bend the bow, and skill to point the shaft, but the meanest malice can dip it in poison. And, when the passions of the day are passed, personal abuse is forgotten, or remembered only to the discredit of those who deal in it; but argument never loses its force; eloquence never ceases to charm; and truth is eternal.

We close these introductory remarks, by commending the volumes of the Speeches of Mr. Webster to the affections of the American people, and particularly of the Young Men of the country, for their strong practical and patriotic tendency. They deal not in metaphysical abstractions, nor in popular generalities; they speak to the common sense, to the sound judgment, the patriotic feeling, of all good citizens. The future incidents of his public course are in the disposal of Providence, to be decided by second causes, which no one can foresee. But of his station before the American people; of the relation in which he has placed himself to the Constitution; of his connection with the truths and the principles on which the Union rests,—there is no question; and over these, time, and events, and men, have no control. It may please the people to honor talents such as Heaven has intrusted to his stewardship, to reward services such as he has performed,—as the people only can honor and reward them; or others may attain the high honors of that Constitution which he has so nobly vindicated, and done so much to uphold. The alternative is certainly no mean one, in the common estimation formed of human things; but to no man in the United States can it be personally so indiffer-

cat as to a man like Mr. Webster. The service has been rendered; the good has been performed; the tribute of gratitude has flowed from millions of patriotic hearts; and the time will never come when it will be forgotten, either in the United States, or whereaoever, in the whole world and in all time, the English language shall be understood, and the history of this generation shall be read. The party triumphs of the day may be, and sometimes are, decided by influences with which worth and merit are of little account; but thanks to the press, the *great suffrage of an approving age* cannot be diverted from its rightful object.

Let it not be thought, however, by this reflection, that we are unobservant spectators of the signs of the times. We rejoice in the strong and encouraging indications, that the contemporaries of Mr. Webster are gratefully sensible of his merits, and in the earnest and extensive conviction, which is daily manifesting itself, of the expediency of calling his great powers of usefulness into their appropriate sphere of activity. Proofs are rapidly multiplying, that the people are disposed to do their duty to themselves and the great interests of the country; that they are inclined to take away from mere politicians the decision of the question,—To whom shall the *momentous trust* of the chief administration of the Government be confided? Let this become the general feeling of the country, and we regard it as the inevitable result, that "the HIGHEST HONORS OF THE CONSTITUTION WILL BE BESTOWED ON ITS ABLEST DEFENDER."

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SPEECH

DELIVERED IN THE CITY OF NEW YORK, MARCH 10, 1831.

In February, 1831, several distinguished gentlemen of the City of New York, in behalf of themselves, and a large number of other citizens, invited Mr. Webster to a public dinner, as a mark of their respect for the value and success of his efforts, in the preceding session of Congress, in defence of the Constitution of the United States. His speech in reply to Mr. Hayne (published in the former volume), which, by that time, had been circulated and read through the country to a greater extent than any speech ever before delivered in Congress, was the particular effort, doubtless, which procured the honor of this invitation.

The dinner took place, at the City Hotel, on the 10th of March, and was attended by a very large assembly.

Chancellor Kent presided, and, in proposing to the gentlemen the health of their guest, made the following remarks:—

New England had been long fruitful in great men, the necessary consequence of the admirable discipline of her institutions; and we were this day honored with the presence of one of those cherished objects of her attachment and pride, who has an undoubted and peculiar title to our regard. It is a plain truth that he who defends the Constitution of his country by his wisdom in council, is entitled to share her gratitude with those who protect it by valor in the field. Peace has its victories as well as war. We all recollect a late memorable occasion, when the exalted talents and enlightened patriotism of the gentleman to whom he had alluded, were exerted in the support of our national Union, and the sound interpretation of its Charter. If there be any one political precept, pre-eminent above all others, and acknowledged by all, it is that which dictates the absolute necessity of a union of the States under one government, and that government clothed with those attributes and powers with which the existing Constitution has invested it. We were indebted, under Providence, to the operation and influence of the powers of that Constitution, for our national honor abroad, and for unexampled prosperity at home. Its future stability depended upon the firm support and due exercise of its legitimate powers in all their branches. A tendency to disunion—to anarchy among the members rather than to tyranny in the head—had been heretofore the melancholy fate of all the federal governments of ancient and modern Europe. Our Union and National Constitution were formed, as we have hitherto been led to believe, under better auspices and with improved wisdom. But there was a deadly principle of disease inherent in the system. The assumption by any member of the

Union, of the right to question and resist, or annul, as its own judgment should dictate, either the laws of Congress, or the treaties, or the decisions of the Federal Courts, or the mandates of the executive power, duly made and promulgated as the Constitution prescribes, was a most dangerous assumption of power, leading to collision and the destruction of the system. And if, contrary to all our expectations, we should hereafter fail in the grand experiment of a confederate government, extending over some of the fairest portions of this continent, and destined to act, at the same time, with efficiency and harmony, we should most grievously disappoint the hopes of mankind, and blast forever the fruits of the revolution.

But, happily for us, the refutation of such dangerous pretensions, on the occasion referred to, was signal and complete. The false images and delusive theories which had perplexed the thoughts and disturbed the judgments of men, were then dissipated in like manner as spectres disappear at the rising of the sun. The inestimable value of the Union, and the true principles of the Constitution, were explained by clear and accurate reasonings, and enforced by pathetic and eloquent illustrations. The result was the more auspicious, as the heretical doctrines, which were then fairly reasoned down, had been advanced by a very respectable portion of the Union, and urged on the floor of the Senate by the polished mind, manly zeal, and honored name of a distinguished member from the South.

The consequences of that discussion have been extremely beneficial. It turned the attention of the public to the great doctrines of national rights and national union. Constitutional law ceased to remain wrapped up in the breasts, and taught only by the responses, of the living oracles of the law. Socrates was said to have drawn down philosophy from the skies, and scattered it among the schools. It may with equal truth be said that constitutional law, by means of those senatorial discussions, and the master genius that guided them, was rescued from the archives of our tribunals and the libraries of lawyers, and placed under the eye, and submitted to the judgment, of the American people. *Their verdict is with us, and from it their lies no appeal.*

As soon as the immense cheering and acclamations, with which this address and toast were received, had subsided, Mr. WEBSTER rose and spoke as follows:—

I OWE the honor of this occasion, gentlemen, to your patriotic and affectionate attachment to the Constitution of our country. For an effort, well intended, however otherwise of unpretending character, made in the discharge of public duty, and designed to maintain the Constitution, and vindicate its just powers, you have been pleased to tender me this token of your respect. It would be idle affectation to deny, that it gives me singular gratification. Every public man must naturally desire the approbation of his fellow-citizens; and though it may be supposed that I should be anxious, in the first place, not to disappoint the expectations of those whose immediate representative I am, it is not possible, that I should not feel, nevertheless, the high value of such a mark of esteem as is here offered. But, gentlemen, I am conscious that the main purpose of this occasion is higher than mere manifestation of per-

sonal regard. It is to evince your devotion to the Constitution, your sense of its transcendent value, and your just alarm at whatever threatens to weaken its proper authority, or endanger its existence.

Gentlemen, this could hardly be otherwise. It would be strange, indeed, if the members of this vast commercial community should not be first and foremost to rally for the Constitution, whenever opinions and doctrines are advanced hostile to its principles. Where, sooner than here, where, louder than here, may we expect a patriotic voice to be raised, when the Union of the States is threatened? In this great Emporium, at this central point of the united commerce of the United States, of all places, we may expect the warmest, the most determined and universal, feeling of attachment to the National Government. Gentlemen, no one can estimate more highly than I do the natural advantages of your City. No one entertains a higher opinion than myself, also, of that spirit of wise and liberal policy, which has actuated the government of your own great State in the accomplishment of high objects, important to the growth and prosperity both of the State and the City. But all these local advantages, and all this enlightened state policy, could never have made your City what it now is, without the aid and protection of a General Government, extending over all the States, and establishing, for all, a common and uniform system of commercial regulation. Without national character, without public credit, without systematic finance, without uniformity of commercial laws, all other advantages possessed by this City, would have decayed and perished, like unripe fruit. A General Government was, for years before it was instituted, the great object of desire to the inhabitants of this City. New York, at a very early day, was conscious of her local advantages for commerce—she saw her destiny, and was eager to embrace it; but nothing else than a General Government could make free her path before her, and set her forward on her brilliant career. She early saw all this, and to the accomplishment of this great and indispensable object, she bent up every faculty, and exerted every effort. She was not mistaken. She formed no false judgment. At the moment of the adoption of the Constitution, New York was the capital of one State, and contained thirty-two or three thousand people. It now contains more than two hundred thousand people, and is justly regarded as the Commercial Capital, not only of all the United States, but of the whole Continent also, from the Pole to the South Sea. Every page of her history, for the last forty years, bears high and irresistible testimony to the benefits and blessings of the General Government. Her astonishing growth is referred to, and quoted, all the world over, as one of the most striking proofs of the effects of our Federal Union. To suppose her now to be easy and indifferent, when notions are advanced tending to its dissolution, would be to

suppose her equally forgetful of the past, and blind to the present, alike ignorant of her own history, and her own interest, metamorphosed, from all that she has been, into a being, tired of its prosperity, sick of its own growth and greatness, and infatuated for its own destruction. Every blow aimed at the Union of the States strikes on the tenderest nerve of her interest and her happiness. To bring the Union into debate, is to bring her own future prosperity into debate also. To speak of arresting the laws of the Union, of interposing State power in matters of Commerce and Revenue, of weakening the full and just authority of the General Government, would be, in regard to this City, but another mode of speaking of commercial ruin, of abandoned wharves, of vacated houses, of diminished and dispersing population, of bankrupt merchants, of mechanics without employment, and laborers without bread. The growth of this City, and the Constitution of the United States, are coevals and cotemporaries. They began together, they have flourished together, and if rashness and folly destroy one, the other will follow it to the tomb.

Gentlemen, it is true, indeed, that the growth of this City is extraordinary, and almost unexampled. It is now, I believe, sixteen or seventeen years since I first saw it. Within that comparatively short period, it has added to its number three times the whole amount of its population when the Constitution was adopted. Of all things having power to check this prosperity; of all things potent to blight and blast it; of all things capable of compelling this City to recede as fast as she has advanced,—a disturbed government, an enfeebled public authority, a broken or a weakened Union of the States,—would be most sovereign. This would be cause efficient enough. Every thing else, in the common fortune of communities, she may hope to resist or to prevent. But this would be fatal as the arrow of death.

Gentlemen, you have personal recollections and associations, connected with the establishment and adoption of the Constitution, which are necessarily called up on an occasion like this. It is impossible to forget the prominent agency which eminent citizens of your own fulfilled, in regard to that great measure. Those great men are now recorded among the illustrious dead; but they have left names never to be forgotten, and never to be remembered without respect and veneration. Least of all, can they be forgotten by you, when assembled here for the purpose of signifying your attachment to the Constitution, and your sense of its inestimable importance to the happiness of the people.

I should do violence to my own feelings, gentlemen—I think I should offend yours—if I omitted respectful mention of distinguished names, yet fresh in your recollections. How can I stand here, to speak of the Constitution of the United States, of the wisdom of its

provisions, of the difficulties attending its adoption, of the evils from which it rescued the country, and of the prosperity and power to which it has raised it, and yet pay no tribute to those who were highly instrumental in accomplishing the work? While we are here, to rejoice that it yet stands firm and strong; while we congratulate one another that we live under its benign influence, and cherish hopes of its long duration,—we cannot forget who they were that, in the day of our national infancy, in the times of despondency and despair, mainly assisted to work out our deliverance. I should feel that I disregarded the strong recollections which the occasion presses upon us, that I was not true to gratitude, not true to patriotism, not true to the living or the dead, not true to your feelings or my own, if I should forbear to make mention of ALEXANDER HAMILTON.

Coming from the military service of the country, yet a youth, but with knowledge and maturity, even in civil affairs, far beyond his years, he made this City the place of his adoption; and he gave the whole powers of his mind to the contemplation of the weak and distracted condition of the country. Daily increasing in acquaintance and confidence with the people of this City, he saw, what they also saw, the absolute necessity of some closer bond of union for the States. This was the great object of desire. He never appears to have lost sight of it, but was found in the lead, whenever any thing was to be attempted for its accomplishment. One experiment after another, as is well known, was tried, and all failed. The States were urgently called on to confer such further powers on the old Congress as would enable it to redeem the public faith, or to adopt, themselves, some general and common principle of commercial regulation. But the States had not agreed, and were not likely to agree. In this posture of affairs, so full of public difficulty, and public distress, Commissioners from five or six of the States met, on the request of Virginia, at Annapolis, in Sept., 1786. The precise object of their appointment was, to take into consideration the trade of the United States; to examine the relative situations and trade of the several States; and to consider how far a uniform system of commercial regulations was necessary to their common interest and permanent harmony. Mr. Hamilton was one of these Commissioners; and I have understood, though I cannot assert the fact, that their Report was drawn by him. His associate from this State was the venerable Judge BENSON, who has lived long, and still lives, to see the happy results of the counsels which originated in this meeting. Of its members, he and Mr. Madison are, I believe, now the only survivors. These Commissioners recommended, what took place the next year, a General Convention of all the States, to take into serious deliberation the condition of the country, and devise such provisions as should render the

Constitution of the Federal Government adequate to the exigencies of the Union. I need not remind you, that of this Convention Mr. Hamilton was an active and efficient member. The Constitution was framed, and submitted to the country. And then another great work was to be undertaken. The Constitution would naturally find, and did find, enemies and opposers. Objections to it were numerous, and powerful, and spirited. They were to be answered; and they were, effectually, answered. The writers of the numbers of the Federalist, Mr. Hamilton, Mr. Madison, and Mr. Jay, so greatly distinguished themselves in their discussions of the Constitution, that those numbers are generally received as important commentaries on the text, and accurate expositions, in general, of its objects and purposes. Those papers were all written and published in this City. Mr. Hamilton was elected one of the distinguished delegation from the City, into the State Convention at Poughkeepsie, called to ratify the new Constitution. Its debates are published. Mr. Hamilton appears to have exerted, on this occasion, to the utmost, every power and faculty of his mind.

The whole question was likely to depend on the decision of New York. He felt the full importance of the crisis; and the reports of his speeches, imperfect as they probably are, are yet lasting monuments to his genius and patriotism. He saw at last his hopes fulfilled; he saw the Constitution adopted, and the government under it established and organized. The discerning eye of Washington immediately called him to that post, which was infinitely the most important in the administration of the new system. He was made Secretary of the Treasury; and how he fulfilled the duties of such a place, at such a time, the whole country perceived with delight, and the whole world saw with admiration. He smote the rock of the national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of the Public Credit, and it sprung upon its feet. The fabled birth of Minerva, from the brain of Jove, was hardly more sudden, or more perfect, than the financial system of the United States, burst forth from the conceptions of ALEXANDER HAMILTON.

Your recollections, gentlemen, your respect, and your affections, all conspire to bring before you, at such a time as this, another great man, now, too, numbered with the dead. I mean the pure, the disinterested, the patriotic JOHN JAY. His character is a brilliant jewel in the sacred treasures of national reputation. Leaving his profession at an early period, yet not before he had singularly distinguished himself in it, from the commencement of the revolution, his whole life, until his final retirement, was a life of public service. A member of the first Congress, he was the author of that political paper which is generally acknowledged to stand first

among the incomparable productions of that body; productions which called forth that decisive strain of commendation from the great Lord Chatham, in which he pronounced them not inferior to the finest productions of the master States of the world. Mr. Jay had been abroad, and he had also been long intrusted with the difficult duties of our foreign correspondence at home. He had seen and felt, in the fullest measure, and to the greatest possible extent, the difficulty of conducting our foreign affairs honorably and usefully, without a stronger and more perfect domestic union. Though not a member of the Convention which framed the Constitution, he was yet present while it was in session, and looked anxiously for its result. By the choice of this City, he had a seat in the State Convention, and took an active and zealous part for the adoption of the Constitution. On the organization of the new Government, he was selected by Washington to be the first Chief Justice of the United States; and surely the high and most responsible duties of that station could not have been trusted to abler or safer hands. It is the duty, one of equal importance and delicacy, of that tribunal, to decide constitutional questions, arising occasionally on State laws. The general learning and ability, and especially the prudence, the mildness, and the firmness of his character, eminently fitted Mr. Jay to be the head of such a court. When the spotless ermine of the judicial robe fell on JOHN JAY, it touched nothing not as spotless as itself.

These eminent men, gentlemen, the cotemporaries of some of you, known to most, and revered by all, were so conspicuous in the framing and adopting of the Constitution, and called so early to important stations under it, that a tribute, better, indeed, than I have given, or am able to give, seemed due to them from us.

There was yet another, of whom mention is to be made. In the revolutionary history of the country, the name of Chancellor LIVINGSTON became early prominent. He was a member of that Congress which declared Independence; and a member, too, of the Committee which drew and reported the immortal Declaration. At the period of the adoption of the Constitution, he was its firm friend and able advocate. He was a member of the State Convention, being one of that list of distinguished and gifted men, who represented this city in that body; and he threw the whole weight of his talents and influence into the doubtful scale of the Constitution.

Gentlemen, as connected with the Constitution, you have also local recollections which must bind it still closer to your attachment and affection. It commenced its being, and its blessings, here. It was in this City, in the midst of friends, anxious, hopeful, and devoted, that the new Government started in its course. To us, gentlemen, who are younger, it has come down by tradition; but some around me are old enough to have witnessed, and did witness, the interesting scene of the first inauguration. They re-

member what voices of gratified patriotism, what shouts of enthusiastic hope, what acclamations, rent the air—how many eyes were suffused with tears of joy—how cordially each man pressed the hand of him who was next to him, when, standing in the open air, in the centre of the City, in the view of assembled thousands, the first President was heard solemnly to pronounce the words of his official oath, repeating them from the lips of Chancellor LIVINGSTON. You then thought, gentlemen, that the great work of the revolution was accomplished. You then felt that you had a Government—that the United States were then, indeed, united. Every benignant star seemed to shed its selectest influence on that auspicious hour. Here were heroes of the Revolution; here were sages of the Convention; here were minds, disciplined and schooled in all the various fortunes of the country, acting now in several relations, but all co-operating to the same great end, the successful administration of the new and untried Constitution. And he—how shall I speak of him?—he was at the head, who was already first in war,—who was already first in the hearts of his countrymen,—and who was now shown also, by the unanimous suffrage of the country, to be first in peace.

Gentlemen, how gloriously have the hopes, then indulged, been fulfilled! Whose expectation was then so sanguine—I may almost ask, whose imagination then so extravagant—as to run forward and contemplate as probable, the one half of what has been accomplished in forty years? Who among you can go back to 1789, and see what this City, and this country too, then were—and then, beholding what they now are, can be ready to consent that the Constitution of the United States shall be weakened, *nullified*, or dishonored?

Gentlemen, before I leave these pleasant recollections, I feel it an irresistible impulse of duty to pay a tribute of respect to another distinguished person, not, indeed, a fellow-citizen of your own, but associated with those I have already mentioned, in important labors, and an early and indefatigable friend and advocate in the great cause of the Constitution. Gentlemen, I refer to Mr. MADISON. I am aware, gentlemen, that a tribute of regard from me to him is of little importance; but if it shall receive your approbation and sanction, it will become of value. Mr. Madison, thanks to a kind Providence, is yet among the living, and there is certainly no other individual living, to whom the country is so much indebted for the blessings of the Constitution. He was one of the Commissioners at Annapolis, in 1786, at the meeting of which I have already spoken; a meeting which, to the great credit of Virginia, had its origin in a proceeding of that State. He was a member of the Convention of 1789, and of that of Virginia the following year. He was thus intimately acquainted with the whole progress of the

formation of the Constitution, from its very first step to its final adoption. If ever man had the means of understanding a written instrument, Mr. Madison has the means of understanding the Constitution. If it be possible to know what was designed by it, he can tell us. It was in this City, that, in conjunction with Mr. Hamilton and Mr. Jay, he wrote the numbers of the Federalist; and it was in this City that he commenced his brilliant career, under the new Constitution, having been elected into the House of Representatives of the first Congress. The recorded votes and debates of those times show his active and efficient agency in every important measure of that Congress. The necessary organization of the Government, the arrangement of the Departments, and especially the paramount subject of revenue, engaged his attention, and shared his labors.

The legislative history of the first two or three years of the Government is full of instruction. It presents, in striking light, the evils intended to be remedied by the Constitution, and the provisions which were deemed essential to the remedy of those evils. It exhibits the Country, in the moment of its change, from a weak and ill-defined confederacy of States, into a general, efficient, but still restrained and limited government. It shows the first working of our peculiar system, moved, as it then was, by master hands.

Gentlemen, for one, I confess, I like to dwell on this part of our history. It is good for us to be here. It is good for us to study the situation of the country at this period, to survey its difficulty, to look at the conduct of its public men, to see how they struggle with obstacles, real and formidable, and how gloriously they brought the country out of its state of depression and distress. Truly, Gentlemen, these founders and fathers of the Constitution were great men, and thoroughly furnished for every good work. All that reading and learning could do; all that talent and intelligence could do; and—what perhaps is still more—all that long experience, in difficult and troubled times, and a deep and intimate practical knowledge of the condition of the country, could do, —conspired to fit them for the great business of forming a general, but limited government, embracing common objects, extending over all the States, and yet touching the power of the States no further than those common objects require. I confess, I love to linger around these original fountains, and to drink deep of their waters. I love to imbibe, in as full measure as I may, the spirit of those who laid the foundations of the Government, and so wisely and skilfully balanced and adjusted its bearings and proportions.

Having been afterwards, for eight years, Secretary of State, and as long President, Mr. Madison has had an experience in the affairs of the Constitution, certainly second to no man. More than any other man living, and perhaps more than any other who

has lived, his whole public life has been incorporated, as it were, into the Constitution; in the original conception and project of attempting to form it, in its actual framing, in explaining and recommending it, by speaking and writing, in assisting at the first organization of the Government under it, and in a long administration of its executive powers,—in those various ways he has lived near the Constitution, and with the power of imbibing its true spirit, and inhaling its very breath, from its first pulsation of life. Again, therefore, I ask, If he cannot tell us what the Constitution is, and what it means, who can? He had retired with the respect and regard of the community, and might naturally be supposed not willing to interfere again in matters of political concern. He has, nevertheless, not withholden his opinions on the vital question discussed on that occasion, which has caused this meeting. He has stated, with an accuracy almost peculiar to himself, and so stated, as, in my opinion, to place almost beyond further controversy, the true doctrines of the Consitution. He has stated, not notions too loose and irregular to be called even a theory—not ideas struck out by the feeling of present inconvenience or supposed mal-administration—not suggestions of expediency, or evasions of fair and straight-forward construction,—but elementary principles, clear and sound distinctions, and indispensable truths. I am sure, Gentlemen, that I speak your sentiments, as well as my own, when I say, that, for making public so clearly and distinctly as he has done, his own opinions on these vital questions of Constitutional law, Mr. Madison has founded a new and strong claim on the gratitude of a grateful country. You will think, with me, that, at his advanced age, and in the enjoyment of general respect and approbation, for a long career of public services, it was an act of distinguished patriotism, when he saw notions promulgated and maintained, which he deemed unsound and dangerous, not to hesitate to come forward, and to place the weight of his own opinion in what he deemed the right scale, come what, come might. I am sure, Gentlemen, it cannot be doubted,—the manifestation is clear,—that the country feels deeply the force of this new obligation.

Gentlemen, what I have said of the benefits of the Constitution to your City, might be said, with little change, in respect to every other part of the country. Its benefits are not exclusive. What has it left undone, which any government could do, for the whole country? In what condition has it placed us? Where do we now stand? Are we elevated, or degraded, by its operation? What is our condition under its influence, at the very moment when some talk of arresting its power and breaking its unity? Do we not feel ourselves on an eminence? Do we not challenge the respect of the whole world? What has placed us thus high? What has given

us this just pride? What else is it, but the unrestrained and free operation of that same Federal Constitution, which it has been proposed now to hamper, and manacle, and nullify? Who is there among us, that, should he find himself on any spot of the earth, where human beings exist, and where the existence of other nations is known, would not be proud to say, I am an American? I am a countryman of Washington? I am a citizen of that Republic, which, although it has suddenly sprung up, yet there are none on the globe who have ears to hear, and have not heard of it—who have eyes to see, and have not read of it—who know any thing, and yet do not know of its existence and its glory?—And, Gentlemen, let me now reverse the picture. Let me ask, who there is among us, if he were to be found to-morrow in one of the civilized countries of Europe, and were there to learn that this goodly form of Government had been overthrown—that the United States were no longer united—that a death-blow had been struck upon their bond of Union—that they themselves had destroyed their chief good and their chief honor,—who is there whose heart would not sink within him? Who is there, who would not cover his face for very shame?

At this very moment, Gentlemen, our country is a general refuge for the distressed and the persecuted of other nations. Whoever is in affliction from political occurrences in his own country, looks here for shelter. Whether he be republican, flying from the oppression of thrones—or whether he be monarch or monarchist, flying from thrones that crumble and fall under or around him,—he feels equal assurance, that, if he get foot-hold on our soil, his person is safe, and his rights will be respected.

And who will venture to say, that in any government, now existing in the world, there is greater security for persons or property than in that of the United States? We have tried these popular institutions in times of great excitement and commotion; and they have stood substantially firm and steady, while the fountains of the great political deep have been elsewhere broken up; while thrones, resting on ages of prescription, have tottered and fallen; and while, in other countries, the earthquake of unrestrained popular commotion has swallowed up all law, and all liberty, and all right together. Our Government has been tried in peace, and it has been tried in war; and has proved itself fit for both. It has been assailed from without, and it has successfully resisted the shock; it has been disturbed within, and it has effectually quieted the disturbance. It can stand trial—it can stand assault—it can stand adversity,—it can stand every thing, but the marring of its own beauty, and the weakening of its own strength. It can stand every thing, but the effects of our own rashness, and our own folly. It can stand every thing, but disorganization, disunion, and nullification.

that it may be called on, and is occasionally called on, to decide questions, which are, in one sense, of a political nature. The General and State Governments, both established by the people, are established for different purposes, and with different powers. Between those powers, questions may arise; and who shall decide them? Some provision for this end is absolutely necessary. What shall it be? This was the question before the Convention; and various schemes were suggested. It was foreseen, that the States might inadvertently pass laws inconsistent with the Constitution of the United States, or with acts of Congress. At least, laws might be passed, which would be charged with such inconsistency. How should these questions be disposed of? Where shall the power of judging, in cases of alleged interference, be lodged? One suggestion, in the Convention, was, to make it an executive power, and to lodge it in the hands of the President, by requiring all State laws to be submitted to him, that he might negative such as he thought appeared repugnant to the general Constitution. This idea, perhaps, may have been borrowed from the power exercised by the crown over the laws of the colonies. It would evidently have been not only an inconvenient and troublesome proceeding, but dangerous, also, to the powers of the States. It was not pressed. It was thought wiser and safer, on the whole, to require State Legislatures and State Judges to take an oath to support the Constitution of the United States, and then leave the States at liberty to pass whatever laws they pleased, and if interference, in points of fact, should arise, to refer the question to judicial decision. To this end, the judicial power, under the Constitution of the United States, was made co-extensive with the legislative power. It was extended to all cases arising under the Constitution and the laws of Congress. The judiciary became thus possessed of the authority of deciding, in the last resort, in all cases of alleged interference, between State laws and the Constitution, and laws of Congress.

Gentlemen, this is the actual Constitution—this is the law of the land. There may be those who think it unnecessary, or who would prefer a different mode of deciding such questions. But this is the established mode, and, till it be altered, the courts can no more decline their duty, on these occasions, than on other occasions. But, Gentlemen, can any reasonable man doubt the expediency of this provision, or suggest a better? Is it not absolutely essential to the peace of the country, that this power should exist somewhere? Where can it exist, better than where it now does exist? The national judiciary is the common tribunal of the whole country. It is organized by the common authority, and its places filled by the common agent. This is a plain and practical provision. It was framed by no bunglers, nor by any wild

theorists. And who can say that it has failed? Who can find substantial fault with its operation or its results? The great question is, whether we shall provide for the peaceable decision of cases of collision. Shall they be decided by law, or by force? Shall the decisions be decisions of peace, or decisions of war?

On the occasion which has given rise to this meeting, the proposition contended for, was, that every State, under certain supposed exigencies, and in certain supposed cases, might decide for itself, and act for itself, and oppose its own force to the execution of the laws. By what argument, do you imagine, Gentlemen, it was, that such a proposition was maintained? I should call it metaphysical, and subtle; but these terms would imply at least ingenuity, and some degree of plausibility; whereas the argument appears to me plain assumption, mere perverse construction of plain language, in the body of the Constitution itself. As I understand it, when put forth in its revised and most authentic shape, it is this: that the Constitution provides that any amendments may be made to it, which shall be agreed to by three fourths of the States: there is, therefore, to be nothing in the Constitution to which three fourths of the States have not agreed. All this is true; but then comes this inference, viz. that when one State denies the constitutionality of any law of Congress, she may arrest its execution as to herself, and keep it arrested, till the States can all be consulted, by their Conventions, and three fourths of them shall have decided that the law is Constitutional. Indeed, the inference is still stranger than this; for State Conventions have no authority to construe the Constitution, though they have authority to amend it; therefore the argument must prove, if it prove any thing, that when any one State denies that any particular power is included in the Constitution, it is to be considered as not included, and cannot be found there, till three fourths of the States agree to insert it. In short, the result of the whole is, that, though it requires three fourths of the States to insert any thing into the Constitution, yet any one State can strike any thing out of it. For the power to strike out, and the power of deciding, without appeal, upon the construction of what is already in, are substantially and practically the same.

And, Gentlemen, what a spectacle should we have exhibited under the actual operation of notions like these! At the very moment when our Government was quoted, praised, and commended all over the world; when the friends of Republican Liberty, every where, were gazing at it with delight, and were in perfect admiration at the harmony of its movements, one State steps forth, and, by the power of nullification, breaks up the whole system, and scatters the bright chain of the Union into as many sundered links as there are separate States!

Seeing the true grounds of the Constitution thus attacked, I

raised my voice in its favor, I must confess, with no preparation, or previous intention. I can hardly say that I embarked in the contest from a sense of duty. It was an instantaneous impulse of inclination, not acting against duty, I trust, but hardly waiting for its suggestions. I felt it to be a contest for the integrity of the Constitution; and I was ready to enter into it, not thinking, or caring, personally, how I might come out.

Gentlemen, I have true pleasure in saying that I trust the crisis has, in some measure, passed by. The doctrines of nullification have received a severe and stern rebuke from public opinion. The general reprobation of the country has been cast upon them. Recent expressions of the most numerous branch of the National Legislature are decisive and imposing. Every where, the general tone of public feeling is for the Constitution. While much will be yielded—every thing, almost, but the integrity of the Constitution, and the essential interests of the country—to the cause of mutual harmony, and mutual conciliation, no ground can be granted, not an inch, to menace, and bluster. Indeed, menace and bluster, and the putting forth of daring unconstitutional doctrines, are, at this very moment, the chief obstacles to mutual harmony, and satisfactory accommodation. Men cannot well reason, and confer, and take counsel together, about the discreet exercise of a power, with those who deny that any such power rightfully exists, and who threaten to blow up the whole Constitution, if they cannot otherwise get rid of its operation. It is matter of sincere gratification, Gentlemen, that the voice of this great State has been so clear and strong, and her vote all but unanimous, on the most interesting of these occasions, in the House of Representatives. Certainly such respect to the Union becomes New York. It is consistent with her interests and her character. That singularly-prosperous State—which now is, and is likely to continue to be, the greatest link in the chain of the Union—will ever be, it is to be hoped, the strongest link also. The great States which lie in her neighborhood agreed with her fully in this matter. Pennsylvania, I believe, was loyal to the Union, to a man; and Ohio raises her voice, like that of a lion, against whatsoever threatens disunion and dismemberment. This harmony of sentiment is truly gratifying. It is not to be gainsaid that the union of opinion, in this great central mass of our population, on this momentous point of the Constitution, augurs well for our future prosperity and security.

I have said, Gentlemen, what I verily believe to be true—that there is no danger to the Union, from open and avowed attacks on its essential principles. Nothing is to be feared from those who will march up boldly to their own propositions, and tell us that they mean to annihilate powers exercised by Congress. But, certainly, there are dangers to the Constitution, and we ought not to

shut our eyes to them. We know the importance of a firm and intelligent judiciary; but how shall we secure the continuance of a firm and intelligent judiciary? Gentlemen, the judiciary is in the appointment of the executive power. It cannot continue or renew itself. Its vacancies are to be filled in the ordinary modes of executive appointment. If the time shall ever come (which Heaven avert), when men shall be placed in the supreme tribunal of the country, who entertain opinions hostile to the just powers of the Constitution, we shall then be visited by an evil defying all remedy. Our case will be "past surgery." From that moment the Constitution is at an end. If they who are appointed to defend the castle shall betray it, wo betide those within! If I live to see that day come, I shall despair of the country. I shall be prepared to give it back to all its former afflictions, in the days of the confederation. I know no security, Gentlemen, against the possibility of this evil, but an awakened public vigilance. I know no safety, but in that state of public opinion, which shall lead it to rebuke and put down every attempt, either to gratify party, by judicial appointments, or to dilute the Constitution by creating a court which shall construe away its provisions. If members of Congress betray their trust, the people will find it out, before they are ruined. If the President should, at any time, violate his duty, his term of office is short, and popular elections may supply a seasonable remedy. But the judges of the Supreme Court possess, for very good reasons, an independent tenure of office. No election reaches them. If, with this tenure, they betray their trusts, Heaven save us! Let us hope for better results. The past, certainly, may encourage us. Let us hope that we shall never see the time when there shall exist such an awkward posture of affairs, as that the Government shall be found in opposition to the Constitution, and when the guardians of the Union shall become its betrayers.

Gentlemen, our country stands, at the present time, on commanding ground. Older nations, with different systems of government, may be somewhat slow to acknowledge all that justly belongs to us. But we may feel, without vanity, that America is doing her part in the great work of improving human affairs. There are two principles, Gentlemen, strictly and purely American, which are now likely to overrun the civilized world. Indeed, they seem the necessary result of the progress of civilization and knowledge. These are, first, popular governments, restrained by written constitutions; and, secondly, universal education. Popular governments and general education, acting and re-acting, mutually producing and reproducing each other, are the mighty agencies which, in our days, appear to be exciting, stimulating, and changing civilised societies. Man, every where, is now found demand-

ing a participation in government—and he will not be refused; and he demands knowledge as necessary to self-government. On the basis of these two principles, liberty and knowledge, our own American systems rest. Thus far, we have not been disappointed in their results. Our existing institutions, raised on these foundations, have conferred on us almost unmixed happiness. Do we hope to better our condition by change? When we shall have nullified the present Constitution, what are we to receive in its place? As fathers, do we wish for our children better government, or better laws? As members of society, as lovers of our country, is there any thing we can desire for it better than that, as ages and centuries roll over it, it may possess the same invaluable institutions which it now enjoys? For my part, Gentlemen, I can only say, that I desire to thank the beneficent Author of all good, for being born *where* I was born, and *when* I was born; that the portion of human existence, allotted to me, has been meted out to me in this goodly land, and at this interesting period. I rejoice that I have lived to see so much developement of truth—so much progress of liberty—so much diffusion of virtue and happiness. And, through good report and evil report, it will be my consolation to be a citizen of a republic unequalled in the annals of the world, for the freedom of its institutions, its high prosperity, and the prospects of good which yet lie before it. Our course, Gentlemen, is onward, straight onward, and forward. Let us not turn to the right hand, nor to the left. Our path is marked out for us, clear, plain, bright, distinctly defined, like the milky way across the heavens. If we are true to our country, in our day and generation, and those who come after us shall be true to it also, assuredly, assuredly, we shall elevate her to a pitch of prosperity and happiness, of honor and power, never yet reached by any nation beneath the sun.

Gentlemen, before I resume my seat, a highly gratifying duty remains to be performed. In signifying your sentiments of regard, you have kindly chosen to select, as your organ for expressing them, the eminent person* near whom I stand. I feel, I cannot well say how sensibly, the manner in which he has seen fit to speak, on this occasion. Gentlemen, if I may be supposed to have made any attainment in the knowledge of constitutional law, he is among the masters in whose schools I have been taught. You see near him a distinguished magistrate,† long associated with him in judicial labors, which have conferred lasting benefits, and lasting character, not only on the State, but on the whole country. Gentlemen, I acknowledge myself much their debtor. While yet a youth, unknown, and with little expectation of becoming known,

* Chancellor Kent, the presiding officer. † Judge Spencer.

beyond a very limited circle, I have passed days and nights, not of tedious, but of happy and gratified labor, in the study of the judicature of the State of New York. I am most happy to have this opportunity of publicly acknowledging the obligation, and of repaying it, so far as it can be repaid, by the poor tribute of my profound regard, and most sincere good wishes.

Gentlemen, I will no longer detain you than to propose a toast.

"THE CITY OF NEW YORK; HERSELF THE NOBLEST EULOGY ON THE UNION OF THE STATES."

SPEECH

AT THE DINNER IN HONOR OF THE CENTENNIAL BIRTH-DAY OF WASHINGTON.

On the 22d day of February, 1832, being the Centennial Birth-Day of George Washington, a number of Gentlemen, from different parts of the United States, honored the occasion by a Public Dinner, at Barnard's Hotel, in the City of Washington.

The arrangements for the Dinner were made under the direction of a Committee, consisting of Mr. Chambers, of Maryland; Mr. Waggaman, of Louisiana; Mr. Letcher, of Kentucky; Mr. Bates, of Massachusetts; Mr Peters, of Pennsylvania.

According to the arrangements by this Committee, Mr. Webster, Senator of the United States, from the State of Massachusetts, presided; and Gen. Charles Fenton Mercer, a Representative from Virginia, Gen. Walter Jones, of the District of Columbia, and Gen. Joseph Vance, a Representative from Ohio, were selected to act as Vice-Presidents.

After the Dinner was removed, information was given by the Chairman of the Committee of Arrangements, that the President of the Day would announce the Toasts prepared for the occasion.

Mr. Webster, the President of the Day, then rose, and addressed the Company to the following effect:—

I rise, Gentlemen, to propose to you the name of that great man, in commemoration of whose birth, and in honor of whose character and services, we have here assembled.

I am sure that I express a sentiment common to every one present when I say, that there is something more than ordinarily solemn and affecting in this occasion.

We are met to testify our regard for him whose name is intimately blended with whatever belongs most essentially to the prosperity, the liberty, the free institutions, and the renown of our country. That name was of power to rally a nation, in the hour of thick-thronging public disasters and calamities; that name shone, amid the storm of war, a beacon light, to cheer and guide the country's friends; it flamed, too, like a meteor, to repel her foes. That name, in the days of peace, was a loadstone, attracting to itself a whole people's confidence, a whole people's love,

and the whole world's respect; that name, descending with all time, spreading over the whole earth, and uttered in all the languages belonging to the tribes and races of men, will forever be pronounced with affectionate gratitude by every one, in whose breast there shall arise an aspiration for human rights and human liberty.

We perform this grateful duty, Gentlemen, at the expiration of a hundred years from his birth, near the place so cherished and beloved by him, where his dust now reposes, and in the capital which bears his own immortal name.

All experience evinces, that human sentiments are strongly influenced by associations. The recurrence of anniversaries, or of longer periods of time, naturally freshens the recollection, and deepens the impression, of events with which they are historically connected. Renowned places, also, have a power to awaken feeling, which all acknowledge. No American can pass by the fields of Bunker Hill, Monmouth, or Camden, as if they were ordinary spots on the earth's surface. Whoever visits them feels the sentiment of love of country kindling anew, as if the spirit that belonged to the transactions which have rendered these places distinguished, still hovered round, with power to move and excite all who in future time may approach them.

But neither of these sources of emotion equals the power with which great moral examples affect the mind. When sublime virtues cease to be abstractions, when they become imbodied in human character, and exemplified in human conduct, we should be false to our own nature, if we did not indulge in the spontaneous effusions of our gratitude and our admiration. A true lover of the virtue of patriotism delights to contemplate its purest models; and that love of country may be well suspected, which affects to soar so high into the regions of sentiment as to be lost and absorbed in the abstract feeling, and becomes too elevated, or too refined, to glow with fervor in the commendation or the love of individual benefactors. All this is unnatural. It is as if one should be so enthusiastic a lover of poetry as to care nothing for Homer or Milton; so passionately attached to eloquence as to be indifferent to Tully and Chatham; or such a devotee to the arts, in such an ecstasy with the elements of beauty, proportion, and expression, as to regard the master-pieces of Raphael and Michael Angelo with coldness or contempt. We may be assured, Gentlemen, that he who really loves the thing itself, loves its finest exhibitions. A true friend of his country loves her friends and benefactors, and thinks it no degradation to commend and commemorate them. The voluntary outpouring of the public feeling, made to-day, from the north to the south, and from the east to the west, proves this sentiment to be both just and natural. In the cities and in the villages, in the public temples and in the family circles,

among all ages and sexes, gladdened voices, to-day, bespeak grateful hearts and a freshened recollection of the virtues of the Father of his Country. And it will be so, in all time to come, so long as public virtue is itself an object of regard. The ingenuous youth of America will hold up to themselves the bright model of Washington's example, and study to be what they behold; they will contemplate his character till all its virtues spread out and display themselves to their delighted vision; as the earliest astronomers, the shepherds on the plains of Babylon, gazed at the stars till they saw them form into clusters and constellations, overpowering at length the eyes of the beholders with the united blaze of a thousand lights.

Gentlemen, we are at the point of a century from the birth of Washington; and what a century it has been! During its course, the human mind has seemed to proceed with a sort of geometric velocity, accomplishing, for human intelligence and human freedom, more than had been done in fives or tens of centuries preceding. Washington stands at the commencement of a new era, as well as at the head of the new world. A century from the birth of Washington has changed the world. The country of Washington has been the theatre on which a great part of that change has been wrought; and Washington himself a principal agent by which it has been accomplished. His age and his country are equally full of wonders; and of both he is the chief.

If the prediction of the poet, uttered a few years before his birth, be true; if indeed it be designed by Providence that the grandest exhibition of human character and human affairs shall be made on this theatre of the western world; if it be true that,

> "The four first acts already past,
> A fifth shall close the drama with the day;
> Time's noblest offspring is the last;"

how could this imposing, swelling, final scene, be appropriately opened, how could its intense interest be adequately sustained, but by the introduction of just such a character as our Washington?

Washington had attained his manhood when that spark of liberty was struck out in his own country, which has since kindled into a flame, and shot its beams over the earth. In the flow of a century from his birth, the world has changed in science, in arts, in the extent of commerce, in the improvement of navigation, and in all that relates to the civilization of man. But it is the spirit of human freedom, the new elevation of individual man, in his moral, social, and political character, leading the whole long train of other improvements, which has most remarkably distinguished the era. Society, in this century, has not made its progress, like Chinese skill, by a greater acuteness of ingenuity in trifles; it has not merely lashed itself to an increased speed round the old circles

of thought and action; but it has assumed a new character; it has raised itself from *beneath* governments to a participation *in* governments; it has mixed moral and political objects with the daily pursuits of individual men; and, with a freedom and strength before altogether unknown, it has applied to these objects the whole power of the human understanding. It has been the era, in short, when the social principle has triumphed over the feudal principle; when society has maintained its rights against military power, and established, on foundations never hereafter to be shaken, its competency to govern itself.

It was the extraordinary fortune of Washington, that, having been intrusted, in revolutionary times, with the supreme military command, and having fulfilled that trust with equal renown for wisdom and for valor, he should be placed at the head of the first government in which an attempt was to be made, on a large scale, to rear the fabric of social order on the basis of a written constitution, and of a pure representative principle. A government was to be established, without a throne, without an aristocracy, without castes, orders, or privileges; and this government, instead of being a democracy, existing and acting within the walls of a single city, was to be extended over a vast country, of different climates, interests, and habits, and of various sects and sentiments of the Christian religion. The experiment certainly was entirely new. A popular government, of this extent, it was evident, could be framed only by carrying into full effect the principle of representation, or of delegated power; and the world was to see whether society could, by the strength of this principle, maintain its own peace and good government, carry forward its own great interests, and conduct itself to political renown and glory. By the benignity of Providence, this experiment, so full of interest to us and to our posterity forever, so full of interest, indeed, to the world, in its present generation, and in all its generations to come, was suffered to commence under the guidance of Washington. Destined for this high career, he was fitted for it by wisdom, by virtue, by patriotism, by discretion, by whatever can inspire confidence in man toward man. In entering on the untried scenes, early disappointment, and the premature extinction of all hope of success, would have been certain, had it not been that there did exist throughout the country, in a most extraordinary degree, an unwavering trust in Him whose hand held the helm of affairs.

I remarked, Gentlemen, that the whole world was and is interested in the result of this experiment. And is it not so? Do we deceive ourselves, or is it true, that at this moment the career which this Government is running is among the most attractive objects to the civilized world? Do we deceive ourselves, or is it true, that at this moment that love of liberty, and that understand-

ing of its true principles, which are flying over the whole earth, as on the wings of all the winds, are really and truly of American origin?

At the period of the birth of Washington, there existed in Europe no political liberty, in large communities, except the Provinces of Holland, and except that England herself had set a great example, so far as it went, by her glorious revolution of 1688. Every where else, despotic power was predominant, and the feudal or military principle held the mass of mankind in hopeless bondage. One half of Europe was crushed beneath the Bourbon sceptre, and no conception of political liberty, no hope even of religious toleration, existed among that nation which was America's first ally. The King was the State, the King was the Country, the King was all. There was one King, with power not derived from his People, and too high to be questioned; and the rest were all subjects, with no political right but obedience. All above was intangible power, all below quiet subjection. A recent occurrence in the French Chambers shows us how human sentiments on these subjects have changed. A minister had spoken of the "King's subjects." "There are no subjects," exclaimed hundreds of voices at once, "in a country where the People make the King!"

Gentlemen, the spirit of human liberty and of free government, nurtured and grown into strength and beauty in America, has stretched its course into the midst of the nations. Like an emanation from heaven, it has gone forth, and it will not return void. It must change, it is fast changing, the face of the earth. Our great, our high duty, is to show, in our own example, that this spirit is a spirit of health as well as a spirit of power; that its benignity is as great as its strength; that its efficiency to secure individual rights, social relations, and moral order, is equal to the irresistible force with which it prostrates principalities and powers. The world, at this moment, is regarding us with a willing, but something of a fearful admiration. Its deep and awful anxiety is to learn, whether free states may be stable as well as free; whether popular power may be trusted as well as feared; in short, whether wise, regular, and virtuous self-government is a vision, for the contemplation of theorists, or a truth, established, illustrated, and brought into practice, in the country of Washington.

Gentlemen, for the earth which we inhabit, and the whole circle of the sun, for all the unborn races of mankind, we seem to hold in our hands, for their weal or wo, the fate of this experiment. If we fail, who shall venture the repetition? If our example shall prove to be one, not of encouragement, but of terror—not fit to be imitated, but fit only to be shunned—where else shall the world look for free models? If this great *Western Sun* be struck out of the firmament, at what other fountain shall the lamp of

Liberty hereafter be lighted? What other orb shall emit a ray to glimmer, even, on the darkness of the world?

Gentlemen, there is no danger of our overrating, or overstating, the important part which we are now acting in human affairs. It should not flatter our personal self-respect, but it should reanimate our patriotic virtues, and inspire us with a deeper and more solemn sense, both of our privileges and of our duties. We cannot wish better for our country, nor for the world, than that the same spirit which influenced Washington, may influence all who succeed him; and that that same blessing from above, which attended his efforts, may also attend theirs.

The principles of Washington's administration are not left doubtful. They are to be found in the Constitution itself, in the great measures recommended and approved by him, in his speeches to Congress, and in that most interesting paper, his Farewell Address to the people of the United States. The success of the Government under his administration is the highest proof of the soundness of these principles. And, after an experience of thirty-five years, what is there which an enemy could condemn—what is there which either his friends, or the friends of the country, could wish to have been otherwise? I speak, of course, of great measures and leading principles.

In the first place, all his measures were right in intent. He stated the whole basis of his own great character, when he told the country, in the homely phrase of the proverb, that honesty is the best policy. One of the most striking things ever said of him is, "*that he changed mankind's ideas of political greatness.*" To commanding talent, and to success, the common elements of such greatness, he added a disregard of self, a spotlessness of motive, a steady submission to every public and private duty, which threw far into the shade the whole crowd of vulgar great. The object of his regard was the whole country. No part of it was enough to fill his enlarged patriotism. His love of glory, so far as that may be supposed to have influenced him at all, spurned every thing short of general approbation. It would have been nothing to him, that his partisans or his favorites outnumbered, or outvoted, or outmanaged, or outclamored, those of other leaders. He had no favorites—he rejected all partisanship; and, acting honestly for the universal good, he deserved, what he has so richly enjoyed, the universal love.

His principle it was to act right, and to trust the people for support; his principle it was not to follow the lead of sinister and selfish ends, and to rely on the little arts of party delusion to obtain public sanction for such a course. Born for his country, and for the world, he did not give up to party what was meant for mankind. The consequence is, that his fame is as durable as his

principles, as lasting as truth and virtue themselves. While the hundreds whom party excitement, and temporary circumstances, and casual combinations, have raised into transient notoriety, sink again, like thin bubbles, bursting and dissolving into the great ocean, Washington's fame is like the rock, which bounds that ocean, and at whose feet its billows are destined to break harmlessly forever.

The maxims upon which Washington conducted our foreign relations were few and simple. The first was an entire and indisputable impartiality towards foreign states. He adhered to this rule of public conduct, against very strong inducements to depart from it, and when the popularity of the moment seemed to favor such a departure. In the next place, he maintained true dignity, and unsullied honor, in all communications with foreign states. It was among the high duties devolved upon him, to introduce our new Government into the circle of civilized states and powerful nations. Not arrogant or assuming, with no unbecoming or supercilious bearing, he yet exacted for it, from all others, entire and punctilious respect. He demanded, and he obtained at once, a standing of perfect equality for his country, in the society of nations; nor was there a prince or potentate of his day, whose personal character carried with it, into the intercourse with other states, a greater degree of respect and veneration.

He regarded other nations only as they stood in political relations to us. With their internal affairs, their political parties and dissensions, he scrupulously abstained from all interference; and, on the other hand, he spiritedly repelled all such interference by others with us or our concerns. His sternest rebuke—the most indignant measure of his whole administration—was aimed against such an attempted interference. He felt it as an attempt to wound the national honor, and resented it accordingly.

The reiterated admonitions, in his Farewell Address, show his deep fears, that foreign influence would insinuate itself into our councils, through the channels of domestic dissensions, and obtain a sympathy with our own temporary parties. Against all such dangers, he most earnestly entreats the country to guard itself. He appeals to its patriotism, to its self-respect, to its own honor, to every consideration connected with its welfare and happiness, to resist, at the very beginning, all tendencies towards such connection of foreign interests with our own affairs. With a tone of earnestness no where else found, even in his last affectionate farewell advice to his countrymen, he says—"Against the insidious wiles of foreign influence, (I conjure you to believe me, fellow-citizens,) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government."

Lastly, on the subject of foreign relations, Washington never

forgot that we had interests peculiar to ourselves. The primary political concerns of Europe, he saw, did not affect us. We had nothing to do with her balance of power, her family compacts, or her successions to thrones. We were placed in a condition favorable to neutrality, during European wars, and to the enjoyment of all the great advantages of that relation. "Why, then," he asks us, "why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?"

Indeed, Gentlemen, Washington's Farewell Address is full of truths important at all times, and particularly deserving consideration at the present. With a sagacity which brought the future before him, and made it like the present, he saw and pointed out the dangers that even at this moment most imminently threaten us. I hardly know how a greater service of that kind could now be done to the community than by a renewed and wide diffusion of that admirable paper, and an earnest invitation to every man in the country to reperuse and consider it. Its political maxims are invaluable; its exhortation to love of country and to brotherly affection among citizens, touching; and the solemnity with which it urges the observance of moral duties, and impresses the power of religious obligation, gives to it the highest character of truly disinterested, sincere, parental advice.

The domestic policy of Washington found its pole-star in the avowed objects of the Constitution itself. He sought so to administer that Constitution, as to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty. These were objects interesting, in the highest degree, to the whole country, and his policy embraced the whole country.

Among his earliest and most important duties, was the organization of the Government itself, the choice of his confidential advisers, and the various appointments to office. This duty, so important and delicate, when a whole government was to be organized, and all its offices for the first time filled, was yet not difficult to him; for he had no sinister ends to accomplish, no clamorous partisans to gratify, no pledges to redeem, no object to be regarded, but simply the public good. It was a plain, straight-forward matter—a mere honest choice of good men for the public service.

His own singleness of purpose, his disinterested patriotism, were evinced by the selection of his first Cabinet, and by the manner in which he filled the Courts of Justice, and other places of high trust. He sought for men fit for offices; not for offices which might suit men. Above personal considerations, above local considera-

tions, above party considerations, he felt that he could only discharge the sacred trust which the country had placed in his hands, by a diligent inquiry after real merit, and a conscientious preference of virtue and talent. The whole country was the field of his selection. He explored that whole field, looking only for whatever it contained most worthy and distinguished. He was, indeed, most successful, and he deserved success for the purity of his motives, the liberality of his sentiments, and his enlarged and manly policy.

Washington's administration established the national credit, made provision for the public debt, and for that patriotic army whose interests and welfare were always so dear to him; and, by laws wisely framed, and of admirable effect, raised the commerce and navigation of the country, almost at once, from depression and ruin, to a state of prosperity. Nor were his eyes open to these interests alone. He viewed with equal concern its agriculture and manufactures, and so far as they came within the regular exercise of the powers of this Government, they experienced regard and favor.

It should not be omitted, Gentlemen, even in this slight reference to the general measures and general principles of the first President, that he saw and felt the full value and importance of the Judicial Department of the Government. An upright and able administration of the laws he held to be alike indispensable to private happiness and public liberty. The temple of justice, in his judgment, was a sacred place, and he would profane and pollute it, who should assign any to minister in it, not spotless in character, not incorruptible in integrity, not competent by talent and learning, not a fit object of unhesitating trust.

Among other admonitions, Washington has left us, in his last communication to his country, an exhortation against the excesses of party spirit. A fire not to be quenched, he yet conjures us not to fan and feed the flame. Undoubtedly, Gentlemen, it is the greatest danger of our system, and of our time. Undoubtedly, if that system should be overthrown, it will be the work of excessive party spirit, acting on the Government, which is dangerous enough, or acting *in* the Government, which is a thousand times more dangerous; for Government then becomes nothing but organized party, and, in the strange vicissitudes of human affairs, it may come at last, perhaps, to exhibit the singular paradox of Government itself being in opposition to its own powers, at war with the very elements of its own existence. Such cases are hopeless. As men may be protected against murder, but cannot be guarded against suicide, so Government may be shielded from the assaults of external foes, but nothing can save it when it chooses to lay violent hands on itself.

Finally, Gentlemen, there was in the breast of Washington one sentiment so deeply felt, so constantly uppermost, that no proper occasion escaped without its utterance. From the letter which he signed, in behalf of the Convention, when the Constitution was sent out to the people, to the moment when he put his hand to that last paper, in which he addressed his countrymen, the Union—the Union, was the great object of his thoughts. In that first letter, he tells them, that to him, and his brethren of the Convention, Union appears to be the greatest interest of every true American; and in that last paper, he conjures them to regard that Unity of Government, which constitutes them one people, as the very palladium of their prosperity and safety, and the security of liberty itself. He regarded the Union of these States, not so much as one of our blessings, as the great treasure-house which contained them all. Here, in his judgment, was the great magazine of all our means of prosperity; here, as he thought, and as every American still thinks, are deposited all our animating prospects, all our solid hopes for future greatness. He has taught us to maintain this Union, not by seeking to enlarge the powers of the Government, on the one hand, nor by surrendering them, on the other; but by an administration of them, at once firm and moderate, adopted for objects truly national, and carried on in a spirit of justice and equity.

The extreme solicitude for the preservation of the Union, at all times manifested by him, shows, not only the opinion he entertained of its importance, but his clear perception of those causes which were likely to spring up to endanger it, and which, if once they should overthrow the present system, would leave little hope of any future beneficial re-union. Of all the presumptions indulged by presumptuous man, that is one of the rashest, which looks for repeated and favorable opportunities for the deliberate establishment of a united government over distinct and widely-extended communities. Such a thing has happened once, in human affairs, and but once: the event stands out, as a prominent exception to all ordinary history; and unless we suppose ourselves running into an age of miracles, we may not expect its repetition.

Washington, therefore, could regard, and did regard, nothing as of paramount political interest, but the integrity of the Union itself. With a united government, well administered, he saw we had nothing to fear; and without it, nothing to hope. The sentiment is just, and its momentous truth should solemnly impress the whole country. If we might regard our country as personated in the spirit of Washington, if we might consider him as representing her, in her past renown, her present prosperity, and her future career, and as in that character demanding of us all, to account for our conduct, as political men, or as private citizens—how should he answer him, who has ventured to talk of disunion and dismem-

berment? Or, how should he answer him, who dwells perpetually on local interests, and fans every kindling flame of local prejudice? How should he answer him, who would array State against State, interest against interest, and party against party, careless of the continuance of that *unity of government which constitutes us one people?*

Gentlemen, the political prosperity which this country has attained, and which it now enjoys, it has acquired mainly through the instrumentality of the present Government. While this agent continues, the capacity of attaining to still higher degrees of prosperity exists also. We have, while this lasts, a political life, capable of beneficial exertion, with power to resist or overcome misfortunes, to sustain us against the ordinary accidents of human affairs, and to promote, by active efforts, every public interest. But dismemberment strikes at the very being which preserves these faculties. It would lay its rude and ruthless hand on this great agent itself. It would sweep away, not only what we possess, but all power of regaining lost, or acquiring new, possessions. It would leave the country, not only bereft of its prosperity and happiness, but without limbs, or organs, or faculties, by which to exert itself, hereafter, in the pursuit of that prosperity and happiness.

Other misfortunes may be borne, or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests. It were but a trifle, even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall re-construct the fabric of demolished government? Who shall rear again the well-proportioned columns of Constitutional liberty? Who shall frame together the skilful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, Gentlemen, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them, than were ever shed over the monuments of Roman or Grecian art; for they will be the remnants of a more glorious edifice than Greece or Rome ever saw—the edifice of Constitutional American liberty.

But, Gentlemen, let us hope for better things. Let us trust in that gracious Being who has hitherto held our country as in the hollow of his hand. Let us trust to the virtue and the intelligence of the people, and to the efficacy of religious obligation. Let us trust to the influence of Washington's example. Let us hope that

that fear of Heaven, which expels all other fear, and that regard to duty, which transcends all other regard, may influence public men and private citizens, and lead our country still onward in her happy career. Full of these gratifying anticipations and hopes, let us look forward to the end of that century which is now commenced. A hundred years hence, other disciples of Washington will celebrate his birth with no less of sincere admiration than we now commemorate it. When they shall meet, as we now meet, to do themselves and him that honor, so surely as they shall see the blue summits of his native mountains rise in the horizon, so surely as they shall behold the river on whose banks he lived, and on whose banks he rests, still flowing on toward the sea,—so surely may they see, as we now see, the flag of the Union floating on the top of the Capitol; and then, as now, may the sun, in his course visit no land more free, more happy, more lovely, than this our own country! Gentlemen, I propose—

"The Memory of George Washington."

From the excellent Speeches, delivered by gentlemen on this interesting occasion, we cannot refrain from selecting for this publication, though a little out of place, the appropriate, just, and classic remarks of Mr. Robbins, of Rhode Island.

Mr. Webster having retired, Mr. Chambers, being in the chair, called upon Mr. Robbins, of Rhode Island; when Mr. Senator Robbins, of Rhode Island, addressed the company as follows:—

Gentlemen—I beg leave to offer a sentiment; but first, with your indulgence, will offer a few remarks, not inappropriate, I hope, to the occasion.

It is the peculiar good fortune of this country to have given birth to a citizen, whose name every where produces a sentiment of regard for his country itself. In other countries, whenever or wherever this is spoken of to be praised, and with the highest praise, it is called the country of Washington. I believe there is no people, civilized or savage, in any place, however remote, where the name of Washington has not been heard, and where it is not repeated with the fondest admiration. We are told, that the Arab of the desert talks of Washington in his tent, and that his name is familiar to the wandering Scythian. He seems, indeed, to be the delight of human kind, as their beau ideal of human nature. "Nil oriturum aliàs, nil ortum tale fatentes."

No American, in no part of the world, but has found the regard for himself increased by his connection with Washington, as his fellow-countryman; and who has not felt a pride, and had occasion to exult, in the fortunate connection?

Half a century and more has now passed away since he came upon the stage, and his fame first broke upon the world; for it broke like the blaze of day from the rising sun—almost as sudden, and seemingly as

universal. The eventful period, since that era, has teemed with great men, who have crossed the scene and passed off. Some of them have arrested great attention—very great: still Washington retains his pre-eminent place in the minds of men—still his peerless name is cherished by them in the same freshness of delight as in the morn of its glory.

History will keep her record of his fame; but history is not necessary to perpetuate it. In regions where history is not read, where letters are unknown, it lives, and will go down from age to age, in all future time, in their traditionary lore.

Who would exchange this fame, the common inheritance of our country, for the fame of any individual, which any country of any time can boast?—I would not; with my sentiments, I could not.

I recollect the first time I ever saw Washington: indeed, it is impossible I should forget it, or recollect it without the liveliest emotion. I was then a child at school: the school was dismissed, and we were told, that General Washington was expected in town that day, on his way to Cambridge, to take command of the American army. We, the children, were permitted to mingle with the people, who had assembled in mass to see him. I did see him; I riveted my eyes upon him; I could now, were I master of the pencil, delineate with exact truth his form and features, and every particular of his costume: so vivid are my recollections. I never can forget the feelings his sublime presence inspired. How often, afterwards, when I came, in my studies, to learn them, have I repeated and applied, as expressive of that feeling, these lines—

> "Quem sese ore ferens, quam forti pectore et armis
> Credo equidem, nec vana fides, genus esse Deorum."

He did seem to me more than mortal. It is true this was young and ignorant enthusiasm; but, though young and ignorant, it was not false; it was enthusiasm, which my riper judgment has always recognized as just—it was but the anticipated sentiment of the whole human kind.

I now beg leave to offer this sentiment:

"THE WRITTEN LEGACY OF WASHINGTON TO HIS COUNTRYMEN—A CODE OF POLITICS, BY WHICH, AND BY WHICH ALONE, AS HE BELIEVED, THEIR UNION AND THEIR LIBERTIES CAN BE MADE IMMORTAL."

REMARKS

IN SECRET SESSION OF THE SENATE OF THE UNITED STATES, ON THE NOMINATION OF MR. VAN BUREN AS MINISTER TO GREAT BRITAIN, JANUARY 24, 1832.

MR. PRESIDENT: As it is highly probable that our proceedings on this nomination will be published, I deem it proper to state shortly the considerations which influenced my opinion, and will decide my vote.

I regard this as a very important and delicate question. It is full of responsibility; and I feel the whole force of all that responsibility. While I have been in the Senate, I have opposed no nomination of the President, except for cause; and I have at all times thought that such cause should be plain and sufficient; that it should be real and substantial, not unfounded or fanciful.

I have never desired, and do not now desire, to encroach, in the slightest degree, on the Constitutional powers of the Chief Magistrate of the Nation. I have heretofore gone far, very far, in assenting to nominations which have been submitted to us. I voted for the appointment of all the gentlemen who composed the first Cabinet; I have opposed no nomination of a foreign Minister; and I have not opposed the nominations recently before us, for the re-organization of the administration. I have always been especially anxious, that, in all matters relating to our intercourse with other nations, the utmost harmony, the greatest unity of purpose, should exist between the President and the Senate. I know how much of usefulness such harmony and union are calculated to produce.

I am now fully aware, Sir, that it is a serious, a very serious matter, to vote against the confirmation of a Minister to a Foreign Court, who has already gone abroad, and has been received and accredited by the Government to which he is sent. I am aware, that the rejection of this nomination, and the necessary recall of the Minister, will be regarded by foreign States, at the first blush, as not in the highest degree favorable to the character of our Government. I know, moreover, to what injurious reflections one may subject himself, especially in times of party excitement,

by giving a negative vote on such a nomination. But, after all, I am placed here to discharge *a duty*. I am not to go through a formality; I am to perform a substantial and responsible *duty*. I am to *advise* the President in matters of appointment. This is my Constitutional obligation; and I shall perform it conscientiously and fearlessly. I am bound to say, then, Sir, that, for one, I do not advise nor consent to this nomination. I do not think it a fit and proper nomination; and my reasons are found in the letter of instructions, written by Mr. Van Buren, on the 20th of July, 1829, to Mr. McLane, then going to the Court of England, as American Minister. I think these instructions derogatory, in a high degree, to the character and honor of the country. I think they show a manifest disposition, in the writer of them, to establish a distinction between his country and his party; to place that party above the country; to make interest, at a foreign Court, for that party, rather than for the country; to persuade the English Ministry, and the English Monarch, that *they* had an interest in maintaining, in the United States, the ascendency of the party to which the writer belonged. Thinking thus of the purpose and object of these instructions, I cannot be of opinion that their author is a proper Representative of the United States at that Court. Therefore it is, that I propose to vote against his nomination. It is the first time, I believe, in modern diplomacy, it is certainly the first time in our history, in which a Minister to a foreign Court has sought to make favor for one party at home, against another; or has stooped, from being the Representative of the whole country, to be the Representative of a party. And as this is the first instance in our history of any such transaction, so I intend to do all in my power to make it the last. For one, I set my mark of disapprobation upon it; I contribute my voice and my vote to make it a negative example, to be shunned and avoided by all future Ministers of the United States. If, in a deliberate and formal letter of instructions, admonitions and directions are given to a Minister, and repeated, once and again, to urge these mere party considerations on the foreign Government, to what extent, is it probable, the writer himself will be disposed to urge them, in his one thousand opportunities of informal intercourse with the agents of that Government?

I propose, Sir, to refer to some particular parts of these instructions; but before I do that, allow me to state, very generally, the posture of that subject to which those particulars relate. That subject was the state of our trade with the British West India Colonies. I do not deem it necessary now to go minutely into all the history of that trade. The occasion does not call for it. All know, that, by the Convention of 1815, a reciprocity of intercourse was established between us and Great Britain. The

ships of both countries were allowed to pass, to and from each other respectively, with the same cargoes, and subject to the same duties. But this arrangement did not extend to the British West Indies. There our intercourse was cut off. Various discriminating and retaliatory acts were passed by England and by the United States. Eventually, in the summer of 1825, the English Parliament passed an act, offering reciprocity, *so far as the mere carrying trade was concerned*, to all nations, who might choose, within one year, to accept that offer.

Mr. Adams's administration did not accept that offer; first, because it was never officially communicated to it; secondly, because, only a few months before, a negotiation on the very same subject had been suspended, with an understanding that it might be resumed; and, thirdly, because it was very desirable to arrange the whole matter, if possible, by treaty, in order to secure, if we could, *the admission of our products into the British Islands for consumption*, as well as the admission of our vessels. This object had been earnestly pursued ever since the peace of 1815. It was insisted on, as every body knows, through the whole of Mr. Monroe's administration. He would not treat at all, without treating of this object. He thought the existing state of things better than any arrangement, which, while it admitted our *vessels* into West India ports, still left our *productions* subject to such duties there, that they could not be carried.

Now, Sir, Mr. Adams's administration was not the first to take this ground. It only occupied the same position which its predecessor had taken. It saw no important objects to be gained by changing the state of things, unless that change was to admit our products into the British West Indies, directly from our ports, and not burdened with excessive duties. The direct trade, by English enactments and American enactments, had become closed. No British ship came here from the British West Indies. No American ship went from us to those places. A circuitous trade took place, through the Islands of third Powers; and that circuitous trade was, in many respects, not disadvantageous to us.

In this state of things, Sir, Mr. McLane was sent to England; and he received his instructions from the Secretary of State. In these instructions, and in relation to this subject of the colonial trade, are found the sentiments of which I complain. What are they? Let us examine, and see.

Mr. Van Buren tells Mr. McLane—"The opportunities which you have derived from a participation in our public councils, as well as other sources of information, will enable you to speak with confidence (as far as you may deem it proper and useful so to do) of the respective parts taken by those to whom the ad-

ministration of this Government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade."

Now, this is neither more nor less than saying, "You will be able to tell the British Minister, whenever you think proper, that you, and I, and the leading persons in this administration, have opposed the course heretofore pursued by the Government, and the country, on the subject of the colonial trade. Be sure to let him know, that, on that subject, *we* have held with *England*, and *not* with *our own Government*." Now, I ask you, Sir, if this be dignified diplomacy? Is this statesmanship? Is it patriotism, or is it mere party? Is it a proof of a high regard to the honor and renown of the whole country, or is it evidence of a disposition to make a merit of belonging to one of its political divisions?

The Secretary proceeds: "Their views (that is, the views of the present administration) upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed, are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts."

Now, Sir, in the first place, there is very little reason to suppose that the *first* part of this paragraph is true, in point of fact. I mean that part which intimates that the change of administration was brought about by public disapprobation of Mr. Adams's conduct, respecting the subject of the colonial trade. Possibly, so much was then said, on a subject which so few understood, some degree of impression may have been produced by it. But be assured, Sir, another cause will be found, by future historians, for this change; and that cause will be the popularity of a successful soldier, united with a feeling, made to be considerably extensive, that the preferences of the people in his behalf had not been justly regarded, on a previous occasion. There is, Sir, very little ground to say that "the only tribunal to which the late administration was amenable" has pronounced any judgment against it for its conduct on the whole subject of the colonial trade.

But, however this may be, the *other* assertion in the paragraph is manifestly quite wide of the facts. Mr. Adams's administration did not bring forward this claim. I have stated, already, that it had been a subject, both of negotiation and legislation, through the whole eight years of Mr. Monroe's administration. This the Secretary knew, or was bound to know. Why, then, does he speak of it as set up by the late administration, and afterwards abandoned by them, and not now revived?

But the most humiliating part of the whole follows:—"To set up the acts of the late administration as the cause of forfeiture of privilege, which would otherwise be extended to the people

of the United States, would, under existing circumstances, be unjust in itself, and could not fail to excite their deepest sensibility."

So, then, Mr. President, we are reduced, are we, to the poor condition, that we see a Minister of this great Republic instructed to argue, or to intercede, with the British Minister, lest he should find us *to have forfeited our privileges; and lest these privileges should no longer be extended to us!* And we have *forfeited those privileges*, by our misbehavior in choosing rulers, *who thought better of our own claim than of the British!* Why, Sir, this is patiently submitting to the domineering tone of the British Minister, I believe Mr. Huskinson—[Mr. CLAY said, "No, Mr. Canning."]—Mr. Canning, then, Sir, who told us that all our trade with the West Indies was a *boon*, granted to us by the indulgence of England. The British Minister calls it a *boon*, and our Minister admits it as a *privilege*, and hopes that his Royal Majesty will be too gracious to decide that we have forfeited this privilege, by our misbehavior in the choice of our rulers! Sir, for one, I reject all idea of holding any right of trade, or any other rights, as a *privilege* or a *boon*, from the British Government, or any other Government.

At the conclusion of the paragraph, the Secretary says—"You cannot press this view of the subject too earnestly upon the consideration of the British Ministry. It has bearings and relations that reach beyond the immediate question under discussion."

And adverting, again, to the same subject towards the close of the despatch, he says, "I will add nothing as to the impropriety of suffering any feelings that find their origin in the past pretensions of this Government, to have an adverse influence upon the present conduct of Great Britain."

I ask again, Mr. President, if this be statesmanship? if this be dignity? if this be elevated regard for country? Can any man read this whole despatch, with candor, and not admit, that it is plainly and manifestly the writer's intention to promote the interests of his party at the expense of those of the country?

Lest I should do the Secretary injustice, I will read all that I find, in this letter, upon this obnoxious point. These are the paragraphs:—

"Such is the present state of our commercial relations with the British Colonies; and such the steps by which we have arrived at it. In reviewing the events which have preceded, and more or less contributed to, a result so much to be regretted, there will be found three grounds upon which we are most assailable. 1st, in our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies;" 2nd, &c.

"The opportunities which you have derived from a participation in our public councils, as well as other sources of information,

will enable you to speak with confidence (as far as you may deem it proper and useful so to do) of the respective parts taken by those to whom the administration of this Government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade. Their views upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts. It should be sufficient that the claims set up by them, and which caused the interruption of the trade in question, have been explicitly abandoned by those who first asserted them, and are not revived by their successors. If Great Britain deems it adverse to her interests to allow us to participate in the trade with her colonies, and finds nothing in the extension of it to others to induce her to apply the same rule to us, she will, we hope, be sensible of the propriety of placing her refusal on those grounds. To set up the acts of the late administration as the cause of forfeiture of privileges which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself, and could not fail to excite their deepest sensibility. The tone of feeling which a course so unwise and untenable is calculated to produce, would doubtless be greatly aggravated by the consciousness that Great Britain has, by order in council, opened her colonial ports to Russia and France, notwithstanding a similar omission on their part to accept the terms offered by the act of July, 1825. You cannot press this view of the subject too earnestly upon the consideration of the British ministry. It has bearings and relations that reach beyond the immediate question under discussion."

"I will add nothing as to the impropriety of suffering any feelings that find their origin in the past pretensions of this Government to have an adverse influence upon the present conduct of Great Britain."

Sir, I submit to you, and to the candor of all just men, if I am not right in saying, that the pervading topic, through the whole, is not American rights, not American interests, not American defence, but denunciation of past *pretensions* of our own country, reflections on the past administration, and exultation, and a loud claim of merit for the administration now in power. Sir, I would forgive mistakes; I would pardon the want of information; I would pardon almost any thing, where I saw true patriotism and sound American feeling; but I cannot forgive the sacrifice of this feeling to mere party. I cannot concur in sending abroad a public agent, who has not conceptions so large and liberal, as to feel, that, in the presence of foreign Courts, amidst the monarchies of Europe, he is to stand up for his country, and his whole country; that no jot nor

tittle of her honor is to come to harm in his hands; that he is not to suffer others to reproach either his Government or his country, and far less is he himself to reproach either; that he is to have no objects in his eye but American objects, and no heart in his bosom but an American heart; and that he is to forget self, to forget party, to forget every sinister and narrow feeling, in his proud and lofty attachment to the Republic whose commission he bears.

Mr. President, I have discharged an exceedingly unpleasant duty, the most unpleasant of my public life. But I have looked upon it *as a duty*, and it was not to be shunned. And, Sir, however unimportant may be the opinion of so humble an individual as myself, I now only wish that I might be heard by every Independent Freeman in the United States, by the British Minister, and the British King, and by every Minister and every crowned head in Europe, while, standing here in my place, I pronounce my rebuke, as solemnly and as decisively as I can, upon this first instance, in which an American Minister has been sent abroad, as the Representative of his party, and not as the Representative of his country.

SECOND DAY. JAN. 26.

Mr. Webster said, in reply to some remarks of Mr. Forsyth, that it was, in his judgment, a great mistake, to suppose that what was now called the American "*pretension*," originated with Mr. Adams, either as President or Secretary of State. By the way, it is singular enough that the *American* side of this question is called, in the instructions before us, a *pretension* too long persisted in; but the *British* side of it is called a *right*, too long and too tenaciously resisted by us. This courteous mode of speaking of the claims of a foreign Government, and this reproachful mode of speaking of the claims of our own, is certainly somewhat novel in diplomacy. But, whether it be called, respectfully, a *claim*, or, reproachfully, a *pretension*, it did not originate with Mr. Adams. It had a much earlier origin. This "*pretension*," now abandoned, with so much scorn, or this claim, said, reproachfully, to have been first set up by the late administration, originated with George Washington. He put his own hand to it. He insisted on it; and he would not treat with England, on the subject of the colonial trade, without considering it.

In his instructions to Mr. Morris, under his own hand, in October, 1789, President Washington says—

"*Let it be strongly impressed on your mind, that the privilege of carrying our productions, in our vessels, to their islands, and bringing in return the productions of those islands to our own ports and markets, is regarded here as of the highest importance; and you will be careful not to countenance any idea of our dispens-*

ing with it in a treaty. Ascertain, if possible, their views on this subject; FOR IT WOULD NOT BE EXPEDIENT TO COMMENCE NEGOTIATIONS WITHOUT PREVIOUSLY HAVING GOOD REASONS TO EXPECT A SATISFACTORY TERMINATION OF THEM."

Observe, Sir, that President Washington, in these instructions, is not speaking of the empty and futile right of sending our own vessels, *without cargoes*, to the British West Indies; but he is speaking of the substantial right of carrying our own products to the islands, for sale and consumption there. And whether these products were shut out by a positive act of Parliament, or by a tariff of duties, absolutely and necessarily prohibitory, could make no difference. The object was to provide, by treaty, if it could be done, that our products should find their way, effectually and profitably, into the markets of the British West Indies. This was General Washington's object. This was the "*pretension*" which *he* set up.

It is well known, Sir, that no satisfactory arrangement was made, in General Washington's time, respecting our trade with the British West Indies. But the breaking out of the French Revolution, and the wars which it occasioned, were causes, which, of themselves, opened the ports of the West Indies. During the long continuance of those wars, our vessels, with cargoes of our own products, found their way into the British West India Islands under a practical relaxation of the British Colonial System. While this condition of things lasted, we did very well without a particular treaty. But when the European wars, and our war, all ceased, then Great Britain returned to her former system; then the islands became shut against us; and then it became necessary to treat on the subject. And, Sir, we proposed to treat; our Ministers were, successively, instructed to treat, from that time forward. And, Sir, I undertake to say, that neither Mr. Madison, who was then President, nor his successor, Mr. Monroe, gave any authority or permission to any American Minister to abandon this pretension, and give it up, or even to waive it, or postpone it, and make a treaty without providing for it. No such thing. On the contrary, it will appear, I think, if we look through papers which have been sent to the Senate, that, under Mr. Madison's administration, our Minister in England was fully instructed on this subject, and expected to press it. And as to Mr. Monroe, I have means of being informed, in a manner not liable to mistake, that he was, on this subject, always immovable. He would not negotiate without treating on this branch of the trade; nor did I ever understand, that, in regard to this matter, there was any difference of opinion whatever, among the gentlemen who composed Mr. Monroe's Cabinet. Mr. Adams, as Secretary of State, wrote the despatches and the instructions; but the policy was the policy of the whole

administration, as far as I ever understood. Certain it is, it was the settled and determined policy of Mr. Monroe himself. Indeed, Sir, so far is it from being true, that this *pretension* originated with Mr. Adams, that it was in his administration that, for the first time, permission was given, under very peculiar circumstances, and with instructions to negotiate a treaty, waiving this part of the question. This has been already alluded to, and fully explained, by the honorable member from Kentucky.

So, then, Sir, this *pretension*, asserted in the instructions to have been first set up by the late administration, is shown to have had President Washington for its author, and to have received the countenance of every President who had occasion to act on the subject, from 1789 down to the time of the present administration.

But this is not all. Congress itself has sanctioned the same "pretension." The act of the 1st of March, 1823, makes it an express condition, upon which, and upon which alone, our ports shall be opened to British vessels and cargoes from the West Indies, on the same duties as our vessels and cargoes—*that our products should be admitted into those islands, without paying any other or higher duties than shall be paid on similar productions coming from elsewhere.* All this will be seen by reference to the third section of that act. Now, remember, Sir, that this act of Congress passed in March, 1823, two years before the commencement of Mr. Adams's administration. The act originated in the Senate. The honorable Senator from Maryland, who has spoken on this subject to-day (Mr. Smith), was then a member of the Senate, and took part in the discussion of this very bill; and he supported it, and voted for it. It passed both Houses, without material opposition in either. Now, Sir, how is it possible, after referring to this law of 1823, to find any apology for the assertion contained in these instructions, that this claim is a pretension first set up by Mr. Adams's administration? How is it possible that this law could have been overlooked, or not remembered? In short, Sir, with any tolerable acquaintance with the history of the negotiations of the United States or their legislation, how are we to account for it that such an assertion as these instructions contain, should have found its way into them?

But the honorable member from Georgia asks, why we lay all this to the charge of the Secretary, and not to the charge of the President. The answer is, the President's conduct is not before us. We are not, and cannot become, his accusers, even if we thought there were any thing in his conduct which gave cause for accusation. But the Secretary *is* before us. Not brought before us by any act of ours; he is placed before us by the President's nomination. On that nomination we cannot decline to act. We must

either confirm or reject it. As to the notion that the Secretary of State was but the instrument of the President, and so not responsible for these instructions, I reject, at once, all such defence, excuse or apology, or whatever else it may be called. If there be any thing in a public despatch derogatory to the honor of the country, as I think there is in this, it is enough for me, that I see whose hand is to it. If it be said, that the signer was only an instrument in the hands of others, I reply, that I cannot concur in conferring a high public diplomatic trust on any one who has consented, under any circumstances, to be an *instrument* in such a case.

The honorable member from Georgia asks, also, why we have slept on this subject, and why, at this late day, we bring forward complaints. Sir, nobody has slept upon it. Since these instructions have been made public, there has been no previous opportunity to discuss them. The honorable member will recollect, that the whole arrangement with England was done and completed before ever these instructions saw the light. The President opened the trade by his proclamation, in October, 1830; but these instructions were not publicly sent to Congress till afterwards, that is, till January, 1831. And they were not then sent with any view, that either House should act upon the subject, for the whole business was already settled. For one, I never saw the instructions, nor heard them read, till January, 1831; nor did I ever hear them spoken of as containing these obnoxious passages. This, then, is the first opportunity for considering these instructions.

That they have been subjects of complaint out doors since they were made public, and of much severe animadversion, is certainly true. But, until now, there never has been an opportunity naturally calling for their discussion here. The honorable gentleman may be assured that if such occasion had presented itself, it would have been embraced.

I entirely forbear, Mr. President, from going into the merits of the late arrangement with England, as a measure of commercial policy. Another time will come, I trust, more suitable for that discussion. For the present, I confine myself strictly to such parts of the instructions as I think plainly objectionable, and reprehensive, whatever may be the character of the agreement between us and England, as matter of policy. And I repeat, Sir, that I place the justification of my vote on the *party* tone and *party* character of these instructions. Let us ask, If such considerations as these are to be addressed to a foreign Government, *what is that foreign Government to expect in return?* The Ministers of foreign Courts will not bestow gratuitous favors, nor even gratuitous smiles, on American parties. *What, then, I repeat, is to be the return?*—What is *party* to do here, for that foreign Government, which has

done, is expected to do, or is asked to do, something for party here? What is to be the consideration paid for this foreign favor? Sir, must not every man see, that any mixture of such causes or motives in our foreign intercourse, is as full of danger as it is of dishonor?

I will not pursue the subject. I am anxious only to make my own ground fully and clearly understood; and willingly leave every other gentleman to his own opinions. And I cheerfully submit my own vote to the opinions of the country. I willingly leave it to the people of the United States to say, whether I am acting a factious and unworthy part, or the part of a true-hearted American, in withholding my approbation from the nomination of a gentleman as minister to England, who has, already, as it appears to me, instructed his predecessor at the same Court, to carry party considerations, to argue party merits, and solicit party favors, at the foot of the British throne.

Note. The circumstance did not occur to Mr. Webster's recollection at the moment he was speaking, but the truth is, that Mr. Van Buren was himself a member of the Senate, at the very time of the passing of this law, and Mr. McLane was, at the same time, a member of the House of Representatives. So that Mr. Van Buren did himself certainly concur in "setting up this pretension," two years before Mr. Adams became President.

REPORT

ON THE APPORTIONMENT OF REPRESENTATION.

In the Senate of the United States, April 5, 1832, Mr. Webster made the following Report:—

The Select Committee, to whom was referred, on the 27th of March, the bill from the House of Representatives, entitled "An Act for the Apportionment of Representatives among the several States according to the Fifth Census," have had the subject under consideration, and now ask leave to report:—

This bill, like all laws on the same subject, must be regarded as of an interesting and delicate nature. It respects the distribution of political power among the States of the Union. It is to determine the number of voices which, for ten years to come, each State is to possess in the popular branch of the Legislature. In the opinion of the committee, there can be few or no questions which it is more desirable should be settled on just, fair and satisfactory principles, than this; and, availing themselves of the benefit of the discussion which the bill has already undergone in the Senate, they have given to it a renewed and anxious consideration. The result is, that, in their opinion, the bill ought to be amended. Seeing the difficulties which belong to the whole subject, they are fully convinced that the bill has been framed and passed in the other House, with the sincerest desire to overcome these difficulties, and to enact a law which should do as much justice as possible to all the States. But the committee are constrained to say, that this object appears to them not to have been obtained. The unequal operation of the bill on some of the States, should it become a law, seems to the committee most manifest; and they cannot but express a doubt whether its actual apportionment of the representative power among the several States, can be considered as conformable to the spirit of the Constitution. The bill provides, that, from and after the third of March, 1833, the House of Representatives shall be composed of members elected agreeably to a ratio of one representative for every forty-

seven thousand and seven hundred persons in each State, computed according to the rule prescribed by the Constitution. The addition of the seven hundred to the forty-seven thousand, in the composition of this ratio, produces no effect whatever in regard to the constitution of the House. It neither adds to nor takes from the number of members assigned to any State. Its only effect is, a reduction of the apparent amount of the fractions, as they are usually called, or residuary numbers, after the application of the ratio. For all other purposes, the result is precisely the same as if the ratio had been 47,000.

As it seems generally admitted, that inequalities do exist in this bill, and that injurious consequences will arise from its operation, which it would be desirable to avert, if any proper means of averting them, without producing others equally injurious, could be found, the committee do not think it necessary to go into a full and particular statement of these consequences. They will content themselves with presenting a few examples only of these results, and such as they find it most difficult to reconcile with justice, and the spirit of the Constitution.

In exhibiting these examples, the committee must necessarily speak of particular States; but it is hardly necessary to say, that they speak of them as examples only, and with the most perfect respect, not only for the States themselves, but for all those who represent them here.

Although the bill does not commence by fixing the whole number of the proposed House of Representatives, yet the process adopted by it brings out the number of two hundred and forty members. Of these two hundred and forty members, forty are assigned to the State of New York; that is to say, precisely one sixth part of the whole. This assignment would seem to require that New York should contain one sixth part of the whole population of the United States, and would be bound to pay one sixth part of all her direct taxes. Yet neither of these is the case. The whole representative population of the United States is 11,929,005; that of New York is 1,918,623, which is less than one sixth of the whole, by nearly 70,000. Of a direct tax of two hundred and forty thousand dollars, New York would pay only 38.59. But if, instead of comparing the numbers assigned to New York with the whole numbers of the House, we compare her with other States, the inequality is still more evident and striking.

To the State of Vermont the bill assigns five members. It gives, therefore, eight times as many Representatives to New York as to Vermont: but the population of New York is not equal to eight times the population of Vermont by more than three hundred thousand. Vermont has five members only for 280,657

persons. If the same proportion were to be applied to New York, it would reduce the number of her members from forty to *thirty-four*—making a difference more than equal to the whole representation of Vermont, and more than sufficient to overcome her whole power in the House of Representatives.

A disproportion almost equally striking is manifested, if we compare New York to Alabama. The population of Alabama is 262,203; for this she is allowed five members. The rule of proportion, which gives to her but five members for her number, would give to New York but thirty-six for her number. Yet New York receives forty. As compared with Alabama, then, New York has an excess of representation equal to four fifths of the whole representation of Alabama; and this excess, itself, will give her, of course, as much weight in the House as the whole delegation of Alabama, within a single vote. Can it be said, then, that Representatives are apportioned to these States *according to their respective numbers?*

The ratio assumed by the bill, it will be perceived, leaves large fractions, so called, or residuary numbers, in several of the small States, to the manifest loss of a great part of their just proportion of representative power. Such is the operation of the ratio, in this respect, that New York, with a population less than that of New England by thirty or thirty-five thousand, has yet two more members than all the New England States; and there are seven States in the Union, whose members amount to the number one hundred and twenty-three, being a clear majority of the whole House, whose aggregate fractions, all together, amount only to fifty-three thousand; while Vermont and New Jersey, having together but eleven members, have a joint fraction of seventy-five thousand.

Pennsylvania, by the bill, will have, as it happens, just as many members as Vermont, New Hampshire, Massachusetts, and New Jersey; but her population is not equal to theirs by a hundred and thirty thousand: and the reason of this advantage, derived to her from the provision of the bill, is, that her fraction, or residuum, is twelve thousand only, while theirs is a hundred and forty-four.

But the subject is capable of being presented in a more exact and mathematical form. The House is to consist of two hundred and forty members. Now, the precise portion of power, out of the whole mass presented by the number two hundred and forty, which New York would be entitled to according to her population, is 38.59; that is to say, she would be entitled to thirty-eight members, and would have a residuum or fraction; and even if a member were given her for that fraction, she would still have but thirty-nine; but the bill gives her forty.

These are a part, and but a part, of those results, produced by the bill in its present form, which the committee cannot bring them-

selves to approve. While it is not to be denied that, under any rule of apportionment, some degree of relative inequality must always exist, the committee cannot believe that the Senate will sanction inequality and injustice to the extent in which they exist in this bill, if they can be avoided. But, recollecting the opinions which had been expressed in the discussions of the Senate, the committee have diligently sought to learn, whether there was not some other number which might be taken for a ratio, the application of which would work out more justice and equality. In this pursuit, the committee have not been successful. There are, it is true, other numbers, the adoption of which would relieve many of the States which suffer under the present; but this relief would be obtained only by shifting the pressure on to other States, thus creating new grounds of complaint in other quarters. The number forty-four thousand has been generally spoken of as the most acceptable substitute for 47,708; but should this be adopted, great relative inequality would fall on several States, and, among them, on some of the new and growing States, whose relative disproportion, thus already great, would be constantly increasing.

The committee, therefore, are of opinion, that the bill should be altered in the mode of apportionment. They think that the process which begins by assuming a ratio should be abandoned, and that the bill ought to be framed on the principle of the amendment which has been the main subject of discussion before the Senate. The fairness of the principle of this amendment, and the general equity of its results, compared with those which flow from the other process, seem plain and undeniable. The main question has been, whether the principle itself be Constitutional; and this question the committee proceed to examine, respectfully asking of those who have doubted its Constitutional propriety to deem the question of so much importance as to justify a second reflection.

The words of the Constitution are, "Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

There would seem to be little difficulty in understanding these provisions. The terms used are designed, doubtless, to be re-

ceived in no peculiar or technical sense, but according to their common and popular acceptation. To *apportion* is to distribute by right measure; to set off in just parts; to assign in due and proper proportion. These clauses of the Constitution respect not only the portions of power, but the portions of the public burden, also, which should fall to the several States; and the same language is applied to both. Representatives are to be apportioned among the States according to their respective numbers, and direct taxes are to be apportioned by the same rule. The end aimed at, is, that representation and taxation should go hand in hand; that each state should be represented in the same extent to which it is made subject to the public charges by direct taxation. But, between the apportionment of Representatives and the apportionment of taxes, there necessarily exists one essential difference. Representation founded on numbers must have some limit, and being, from its nature, a thing not capable of indefinite subdivision, it cannot be made precisely equal. A tax, indeed, cannot always, or often, be apportioned with perfect exactness; as in other matters of account, there will be fractional parts of the smallest coins, and the smallest denomination of money of account; yet, by the usual subdivisions of the coin, and of the denomination of money, the apportionment of taxes is capable of being made so exact, that the inequality becomes minute and invisible. But representation cannot be thus divided. Of representation, there can be nothing less than one Representative; nor, by our Constitution, more Representatives than one for every thirty thousand. It is quite obvious, therefore, that the apportionment of representative power can never be precise and perfect. There must always exist some degree of inequality. Those who framed and those who adopted the Constitution, were, of course, fully acquainted with this necessary operation of the provision. In the Senate, the States are entitled to a fixed number of Senators; and therefore, in regard to their representation, in that body, there is no consequential or incidental inequality arising. But, being represented in the House of Representatives according to their respective numbers of people, it is unavoidable that, in assigning to each State its number of members, the exact proportion of each, out of a given number, cannot always or often be expressed in whole numbers; that is to say, it will not often be found that there belongs to a State exactly one tenth, or one twentieth, or one thirtieth of the whole House; and, therefore, no number of Representatives will exactly correspond with the right of such State, or the precise share of representation which belongs to it, according to its population.

The Constitution, therefore, must be understood not as enjoining an absolute relative equality—because that would be demand-

ing an impossibility—but as requiring of Congress to make the apportionment of Representatives among the several States, according to their respective numbers, *as near as may be*. That which cannot be done perfectly, must be done in a manner as near perfection as can be. If exactness cannot, from the nature of things, be attained, then the greatest practicable approach to exactness ought to be made.

Congress is not absolved from all rule, merely because the rule of perfect justice cannot be applied. In such a case, approximation becomes a rule; it takes the place of that other rule, which would be preferable, but which is found inapplicable, and becomes, itself, an obligation of binding force. The nearest approximation to exact truth, or exact right, when that exact truth, or that exact right, cannot itself be reached, prevails in other cases, not as matter of discretion, but as an intelligible and definite rule dictated by justice, and conforming to the common sense of mankind; a rule of no less binding force in cases to which it is applicable, and no more to be departed from than any other rule or obligation.

The committee understand the Constitution, as they would have understood it, if it had said, in so many words, that Representatives should be apportioned among the States, according to their respective numbers, *as near as may be*. If this be not its true meaning, then it has either given, on this most delicate and important subject, a rule which is always impracticable, or else it has given no rule at all; because, if the rule be that Representatives shall be apportioned *exactly* according to numbers, it is impracticable in every case; and if, for this reason, that cannot be the rule, then there is no rule whatever, unless the rule be that they shall be apportioned *as near as may be*.

This construction, indeed, which the committee adopt, has not, to their knowledge, been denied; and they proceed in the discussion of the question before the Senate, taking for granted that such is the true and undeniable meaning of the Constitution.

The next thing to be observed is, that the Constitution prescribes no particular process by which this apportionment is to be wrought out. It has plainly described the end to be accomplished, viz. the nearest approach to relative equality of representation among the States; and whatever accomplishes this end, and nothing else, is the true process. In truth, if, without any process whatever, whether elaborate or easy, Congress could perceive the exact proportion of representative power rightfully belonging to each State, it would perfectly fulfil its duty by conferring that portion on each, without reference to any process whatever. It would be enough that the proper end had been obtained. And it is to be remarked, further, that, whether this end be attained best by one process or by another, becomes, when each process has been

carried through, not matter of opinion, but matter of mathematical certainty. If the whole population of the United States, the population of each State, and the proposed number of the House of Representatives, be all given, then, between two bills apportioning the members among the several States, it can be told, with absolute certainty, which bill assigns to any and every State the number nearest to the exact proportion of that State; in other words, which of the two bills, if either, apportions the Representatives according to the numbers in the States, respectively, *as near as may be*. If, therefore, a particular process of apportionment be adopted, and objection be made to the injustice or inequality of its result, it is, surely, no answer to such objection to say, that the inequality necessarily results from the nature of the process. Before such answer could avail, it would be necessary to show, either that the Constitution prescribes such process, and makes it necessary, or that there is no other mode of proceeding which would produce less inequality and less injustice. If inequality, which might have otherwise been avoided, be produced by a given process, then that process is a wrong one. It is not suited to the case, and should be rejected.

Nor do the committee perceive how it can be matter of Constitutional propriety or validity, or in any way a Constitutional question, whether the process which may be applied to the case be simple or compound, one process or many processes; since, in the end, it may always be seen whether the result be that which has been aimed at, namely, the nearest practicable approach to precise justice and relative equality. The committee, indeed, are of opinion, in this case, that the simplest and most obvious way of proceeding is also the true and Constitutional way. To them it appears that, in carrying into effect this part of the Constitution, the first thing naturally to be done, is, to decide on the whole number of which the House is to be composed; as when, under the same clause of the Constitution, a tax is to be apportioned among the States, the amount of the whole tax is, in the first place, to be settled.

When the whole number of the proposed House is thus ascertained and fixed, it becomes the entire representative power of all the people in the Union. It is then a very simple matter to ascertain how much of this representative power each State is entitled to by its numbers. If, for example, the House is to contain 240 members, then the number 240 expresses the representative power of all the States; and a plain calculation readily shows how much of this power belongs to each State. This portion, it is true, will not always, nor often, be expressed in whole numbers, but it may always be precisely exhibited by a decimal form of expression. If the portion of any State be seldom, or never,

one exact tenth, one exact fifteenth, or one exact twentieth, it will still always be capable of precise decimal expression, as one tenth and two hundredths, one twelfth and four hundredths, one fifteenth and six hundredths, and so on. And the exact portion of the State, being thus decimally expressed, will always show, to mathematical certainty, what integral number comes nearest to such exact portion. For example, in a House consisting of 240 members, the exact mathematical proportion to which her numbers entitle the State of New York, is 38.59: it is certain, therefore, that 39 is the integral or whole number nearest to her exact proportion of the representative power of the Union. Why, then, should she not have thirty-nine? and why should she have forty? She is not quite entitled to thirty-nine; that number is something more than her right. But, allowing her thirty-nine, from the necessity of giving her whole numbers, and because that is the nearest whole number, is not the Constitution fully obeyed when she has received the thirty-ninth member? Is not her proper number of Representatives then apportioned to her, as near as may be? And is not the Constitution disregarded, when the bill goes further, and gives her a fortieth member? For what is such a fortieth member given? Not for her absolute numbers; for her absolute numbers do not entitle her to thirty-nine. Not for the sake of apportioning her members to her numbers as near as may be; because thirty-nine is a nearer apportionment of members to numbers than forty. But it is given, say the advocates of the bill, because the *process* which has been adopted gives it. The answer is, No such process is enjoined by the Constitution.

The case of New York may be compared, or contrasted, with that of Missouri. The exact proportion of Missouri, in a general representation of 240, is two and six tenths; that is to say, it comes nearer to three members than to two, yet it is confined to two. But why is not Missouri entitled to that number of Representatives which comes nearest to her exact proportion? Is the Constitution fulfilled as to her, while that number is withheld, and while, at the same time, in another State, not only is that nearest number given, but an additional member given, also? Is it an answer with which the people of Missouri ought to be satisfied, when it is said that this obvious injustice is the necessary result of the process adopted by the bill? May they not say, with propriety, that, since three is the nearest whole number to their exact right, to that number they are entitled, and the process which deprives them of it, must be a wrong process? A similar comparison might be made between New York and Vermont. The exact proportion to which Vermont is entitled, in a representation of 240, is 5.646. Her nearest whole number, therefore, would be six. Now, two things are undeniably true: first,

that to take away the fortieth member from New York, would bring her representation nearer to her exact proportion than it stands by leaving her that fortieth member: second, that giving the member, thus taken from New York, to Vermont, would bring her representation nearer to her exact right than it is by the bill. And both these propositions are equally true of a transfer of the twenty-eighth member assigned by the bill to Pennsylvania, to Delaware, and of the thirteenth member assigned to Kentucky, to Missouri: in other words, Vermont has, by her numbers, more right to six members than New York has to forty; Delaware, by her numbers, has more right to two members than Pennsylvania has to twenty-eight; and Missouri, by her numbers, has more right to three members than Kentucky has to thirteen. Without disturbing the proposed number of the House, the mere changing of these three members from and to the six States respectively, would bring the representation of each of the whole six nearer to their due proportion, according to their respective numbers, than the bill, in its present form, makes it. In the face of this indisputable truth, how can it be said that the bill apportions these members among those States according to their respective numbers, *as near as may be?*

The principle on which the proposed amendment is founded, is an effectual corrective for these and all other equally great inequalities. It may be applied at all times, and in all cases, and its result will always be the nearest approach to perfect justice. It is equally simple and impartial. As a rule of apportionment, it is little other than a transcript of the words of the Constitution, and its results are mathematically certain. The Constitution, as the committee understand it, says, Representatives shall be apportioned among the States according to their respective numbers of people, as near as may be. The rule adopted by the committee, says, out of the whole number of the House, that number shall be apportioned to each State which comes nearest to its exact right according to its number of people.

Where is the repugnancy between the Constitution and the rule? The arguments against the rule seem to assume, that there is a necessity of instituting some process, adopting some number as the ratio, or as that number of people which each member shall be understood to represent; but the committee see no occasion for any other process whatever, than simply the ascertainment of that *quantum*, out of the whole mass of the representative power, which each State may claim.

But it is said that, although a State may receive a number of Representatives which is something less than its exact proportion of representation, yet that it can, in no case, Constitutionally receive more. How is this proposition proved?—How is it shown

that the Constitution is less perfectly fulfilled by allowing a State a small excess, than by subjecting her to a large deficiency? What the Constitution requires is the nearest practicable approach to precise justice. The rule is approximation; and we ought to approach, therefore, on whichever side we can approach nearest.

But there is still a more conclusive answer to be given to this suggestion. The whole number of representatives, of which the House is to be composed, is, of necessity, limited. This number, whatever it is, is that which is to be apportioned, and nothing else can be apportioned. This is the whole sum to be distributed. If, therefore, in making the apportionment, some States receive less than their just share, it must necessarily follow that some other States have received more than their just share. If there be one State in the Union with less than its right, some other State has more than its right; so that the argument, whatever be its force, applies to the bill in its present form, as strongly as it can ever apply to any bill.

But the objection most usually argued against the principle of the proposed amendment, is, that it provides for the representation of fractions. Let this objection be examined and considered. Let it be ascertained, in the first place, what these fractions, or fractional numbers, or residuary numbers, really are, which it is said will be represented, should the amendment prevail.

A fraction is the broken part of some integral number. It is, therefore, a relative or derivative idea. It implies the previous existence of some fixed number, of which it is but a part or remainder. If there be no necessity for fixing or establishing such previous number, then the fraction resulting from it is itself not matter of necessity, but matter of choice or accident. Now, the argument which considers the plan proposed in the amendment as a representation of fractions, and therefore unconstitutional, assumes as its basis, that, according to the Constitution, every member of the House of Representatives represents, or ought to represent, the same, or nearly the same, number of constituents; that this number is to be regarded as an integer; and any thing less than this is therefore called a fraction, or a residuum, and cannot be entitled to a Representative. But all this is not the provision of the Constitution of the United States. That Constitution contemplates no integer, or any common number for the constituents of a member of the House of Representatives. It goes not at all into these subdivisions of the population of a State. It provides for the apportionment of Representatives, *among the several States*, according to their respective numbers, and stops there. It makes no provision for the representation of districts of States, or for the representation of any portion of the people of a State less than the whole. It says nothing of ratios or of constituent

numbers. All these things it leaves to State legislation. The right which each State possesses to its own due portion of the representative power, is a State right, strictly: it belongs to the State, as a State; and it is to be used and exercised as the State may see fit, subject only to the Constitutional qualifications of electors. In fact, the States do make, and always have made, different provisions for the exercise of this power. In some, a single member is chosen for a certain defined district; in others, two or three members are chosen for the same district; and, in some again, as New Hampshire, Rhode Island, Connecticut, New Jersey, and Georgia, the whole representation of the State is exerted as a joint, undivided representation. In these last-mentioned States, every member of the House of Representatives has for his constituents all the people of the State; and all the people of those States are consequently represented in that branch of Congress.

If the bill before the Senate should pass into a law, in its present form, whatever injustice it might do to any of those States, it would not be correct to say of them, nevertheless, that any portion of their people was unrepresented. The well-founded objection would be, as to some of them at least, that they were not adequately, competently, fairly represented; that they had not as many voices and as many votes in the House of Representatives as they were entitled to. This would be the objection. There would be no unrepresented fractions; but the State, as a State, as a whole, would be deprived of some part of its just rights.

On the other hand, if the bill should pass as it is now proposed to be amended, there would be no representation of fractions in any State; for a fraction supposes a division and a remainder. All that could justly be said, would be, that some of these States, as States, possessed a portion of legislative power a little larger than their exact right; as it must be admitted, that, should the bill pass unamended, they would possess of that power much less than that exact right. The same remarks are substantially true, if applied to those States which adopt the district system, as most of them do. In Missouri, for example, there will be no fraction unrepresented, should the bill become a law in its present form; nor any member for a fraction, should the amendment prevail. Because the mode of apportionment which is nearest to its exact right, applies no assumed ratios, makes no subdivisions, and, of course, produces no fractions. In the one case, or in the other, the State, as a State, will have something more, or something less, than its exact proportion of representative power; but she will part out this power among her own people, in either case, in such mode as she may choose, or exercise it altogether as an entire representation of the people of the State.

Whether the subdivision of the representative power within any State, if there be a subdivision, be equal or unequal, or fairly or unfairly made, Congress cannot know, and has no authority to inquire. It is enough that the State presents her own representation on the floor of Congress in the mode she chooses to present it. If a State were to give to one portion of her territory a Representative for every twenty-five thousand persons, and to the rest a Representative only for every fifty thousand, it would be an act of unjust legislation, doubtless, but it would be wholly beyond redress, by any power in Congress; because the Constitution has left all this to the State itself.

These considerations, it is thought, may show that the Constitution has not, by any implication, or necessary construction, enjoined that which it certainly has not ordained in terms, viz. that every member of the House shall be supposed to represent the same number of constituents; and, therefore, that the assumption of a ratio, as representing the common number of constituents, is not called for by the Constitution. All that Congress is at liberty to do, as it would seem, is to divide the whole representative power of the Union into twenty-four parts, assigning one part to each State, as near as practicable, according to its right, and leaving all subsequent arrangement, and all subdivisions, to the State itself.

If the view thus taken of the rights of the States, and the duties of Congress, be the correct view, then the plan proposed in the amendment is, in no just sense, a representation of fractions. But suppose it was otherwise; suppose a direct provision were made for allowing a Representative to every State in whose population, it being first divided by a common ratio, there should be found a fraction exceeding half the amount of that ratio, what Constitutional objection could be fairly urged against such a provision? Let it always be remembered, that the case here supposed provides only for a fraction exceeding the moiety of the ratio; for the committee admit, at once, that the representation of fractions less than a moiety is unconstitutional; because, should a member be allowed to a State for such a fraction, it would be certain, that her representation would not be so near her exact right as it was before. But the allowance of a member for a major fraction is a direct approximation towards justice and equality. There appears to the committee to be nothing, either in the letter or the spirit of the Constitution, opposed to such a mode of apportionment. On the contrary, it seems entirely consistent with the very object which the Constitution contemplated, and well calculated to accomplish it. The argument commonly urged against it, is, that it is necessary to apply some one common divisor, and to abide by its results.

If by this it be meant, that there must be some common rule, or common measure, applicable, and applied impartially to all the

States, it is quite true. But, if that which is intended be, that the population of each State must be divided by a fixed ratio, and all resulting fractions, great or small, disregarded, this is but to take for granted the very thing in controversy. The question is, whether it be unconstitutional to make approximation to equality, by allowing Representatives for major fractions? The affirmative of this question is, indeed, denied, but it is not disproved, by saying, that we must abide by the operation of division, by an assumed ratio, and disregard fractions. The question still remains as it was before, and it is still to be shown what there is in the Constitution which rejects approximation as the rule of apportionment.

But suppose it to be necessary to find a divisor, and to abide its results. What is a divisor? Not necessarily a simple number. It may be composed of a whole number and a fraction; it may itself be the result of a previous process; it may be any thing, in short, which produces accurate and uniform division: whatever does this, is a common rule, a common standard, or, if the word be important, a common divisor. The committee refer, on this part of the case, to some observations by Professor Dean, with a table, both of which accompany this Report.

As it is not improbable that opinion has been a good deal influenced on this subject by what took place on the passing of the first act making an apportionment of Representatives among the States, the committee have examined and considered that precedent. If it be in point to the present case, it is certainly entitled to very great weight; but if it be of questionable application, the text of the Constitution, even if it were doubtful, could not be explained by a doubtful commentary. In the opinion of the committee, it is only necessary that what was said on that occasion should be understood in connection with the subject-matter then under consideration; and, in order to see what that subject-matter really was, the committee think it necessary to state, shortly, the case.

The two Houses of Congress passed a bill, after the first enumeration of the people, providing for a House of Representatives which should consist of 120 members. The bill expressed no rule or principle by which these members were assigned to the several States. It merely said that New Hampshire should have five members, Massachusetts ten, and so on; going through all the States, and assigning the whole number of one hundred and twenty. Now, by the census then recently taken, it appeared that the whole representative population of the United States was 3,615,920; and it was evidently the wish of Congress to make the House as numerous as the Constitution would allow. But the Constitution has said that there should not be more than one member for every thirty thousand persons.

This prohibition was, of course, to be obeyed; but did the Con-

stitution mean that no State should have more than one member for every thirty thousand persons? Or did it only mean that the whole House, as compared with the whole population of the United States, should not contain more than one member for every thirty thousand persons? If this last were the true construction, then the bill, in that particular, was right; if the first were the true construction, then it was wrong; because so many members could not be assigned to the States, without giving to some of them more members than one for every thirty thousand. In fact, the bill did propose to do this in regard to several States.

President Washington adopted that construction of the Constitution which applied its prohibition to each State individually. He thought that no State could, Constitutionally, receive more than one member for every thirty thousand of her own population. On this, therefore, his main objection to the bill was founded. That objection he states in these words :—

"The Constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than one for every thirty thousand."

It is now necessary to see what there was further objectionable in this bill. The number of one hundred and twelve members was all that could be divided among the States, without giving to some of them more than one member for thirty thousand inhabitants. Therefore, having allotted these one hundred and twelve, there still remained eight of the one hundred and twenty to be assigned; and these eight the bill assigned to the States having the largest fractions. Some of these fractions were large, and some were small. No regard was paid to fractions over a moiety of the ratio, any more than to fractions under it. There was no rule laid down, stating what fractions should entitle the States to whom they might happen to fall, or in whose population they might happen to be found, to a Representative therefor. The assignment was not made on the principle that each State should have a member for a fraction greater than half the ratio; or that all the States should have a member for a fraction, in all cases where the allowance of such member would bring her representation nearer to its exact proportion than its disallowance. There was no common measure, or common rule, adopted, but the assignment was matter of arbitrary discretion. A member was allowed to New Hampshire, for example, for a fraction of less than one half the ratio; thus placing her representation farther from her exact proportion than it was without such additional member; while a member was refused to Georgia, whose case

closely resembled that of New Hampshire, both having what were thought large fractions, but both still under a moiety of the ratio, and distinguished from each other only by a very slight difference of absolute numbers. The committee have already fully expressed their opinion on such a mode of apportionment.

In regard to this character of the bill, President Washington said, "The Constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill."

This was all undoubtedly true, and was, in the judgment of the committee, a decisive objection against the bill. It is, nevertheless, to be observed, that the other objection completely covered the whole ground. *There could, in that bill, be no allowance for a fraction great or small;* because Congress had taken for the ratio the lowest number allowed by the Constitution, viz. thirty thousand. Whatever fraction a State might have less than that ratio, no member could be allowed for it. It is scarcely necessary to observe, that no such objection applies to the amendment now proposed. No State, should the amendment prevail, will have a greater number of members than one for every thirty thousand; nor is it likely that the objection will ever again occur. The whole force of the precedent, whatever it be, in its application to the present case, is drawn from the other objection. And what is the true import of that objection? Does it mean any thing more than that the apportionment was not made on a common rule or principle, applicable, and applied alike to all the States?

President Washington's words are, "There is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of the Representatives proposed by the bill."

If, then, he could have found a common proportion, it would have removed this objection. He required a proportion or divisor. These words he evidently uses as explanatory of each other. He meant by *divisor*, therefore, no more than by *proportion*. What he sought was, some common and equal rule, by which the allotment had been made among the several States; he did not find such common rule; and, on that ground, he thought the bill objectionable.

In the opinion of the committee, no such objection applies to the amendment recommended by them. That amendment gives a rule, plain, simple, just, uniform, and of universal application. The rule has been frequently stated. It may be clearly expressed in either of two ways. Let the rule be, that *the whole number of the proposed House shall be apportioned among the several States*

according to their respective numbers, giving to each State that number of members which comes nearest to her exact mathematical part or proportion; or let the rule be, that *the population of each State shall be divided by a common divisor, and that, in addition to the number of members resulting from such division, a member shall be allowed to each State whose fraction exceeds a moiety of the divisor.*

Either of these is, it seems to the committee, a fair and just rule, capable of uniform application, and operating with entire impartiality. There is no want of a common proportion, or a common divisor; there is nothing left to arbitrary discretion. If the rule, in either of these forms, be adopted, *it can never be doubtful how every member of any proposed number for a House of Representatives, ought to be assigned.* Nothing will be left in the discretion of Congress; the right of each State will be a mathematical right, easily ascertained, about which there can be neither doubt nor difficulty; and, in the application of the rule, there will be no room for preference, partiality or injustice. In any case, in all time to come, it will do all that human means can do, to allot to every State in the Union its proper and just proportion of representative power. And it is because of this, its capability of constant application, as well as because of its impartiality and justice, that the committee are earnest in recommending its adoption to Congress. If it shall be adopted, they believe it will remove a cause of uneasiness and dissatisfaction, recurring, or liable to recur, with every new census, and place the rights of the States, in this respect, on a fixed basis, of which none can with reason complain. It is true, that there may be some numbers assumed for the composition of the House of Representatives, to which, if the rule were applied, the result might give a member to the House more than was proposed. But it will be always easy to correct this by altering the proposed number by adding one to it, or taking one from it; so that this can be considered no objection to the rule.

The committee, in conclusion, cannot admit that it is sufficient reason for rejecting this mode of apportionment, that a different process has heretofore prevailed. The truth is, the errors and inequalities of that process were at first not obvious and startling. But they have gone on increasing; they are greatly augmented and accumulated every new census; and it is of the very nature of the process itself, that its unjust results must grow greater and greater in proportion as the population of the country enlarges. What was objectionable, though tolerable, yesterday, becomes intolerable to-morrow. A change, the committee are persuaded, must come, or the whole just balance and proportion of representative power among the States will be disturbed and broken up.

[Among the papers appended to this Report is the following.]

Extract of a Letter from Professor James Dean.

"I cannot express my rule so densely and perspicuously as I could wish; but its meaning is, that each State shall have such a number of Representatives, that the population for each shall be the nearest possible, whether over or under, to [ ]. The number for each State may be ascertained thus: Divide the representative number by the number assumed to fill the blank, disregarding the remainder; the quotient, or the next greater number, will be the number of Representatives. In order to determine which is the proper one, divide the representative number of the State by the two numbers separately, then subtract the least quotient from the assumed number, and the assumed number from the other quotient; and that from which results the least remainder, is the number of Representatives for the State."

The foregoing rule is illustrated thus: The population of Maine, for instance, which is 399,435, being divided by 47,700, the ratio assumed in the bill from the House of Representatives, gives a quotient of 8; the population being then divided by 8, the quotient is 49,929; divide by 9, the next high number, the quotient is 44,381. The following table exhibits the results in the several States, according to this process.

States.	Federal Population of the U. States.	Number of Representatives.	Numbers nearest to 47,700.	Number of Representatives.	Numbers next nearest to 47,700.	Representatives by the bill from the H. R.
Maine,.....	399,435	8	49,929	9	44,381	8
New Hampshire,.....	269,326	6	44,887	5	53,805	5
Massachusetts,.....	610,407	13	46,954	12	50,867	12
Rhode Island,.....	97,194	2	48,599	3	32,333	2
Connecticut, ...	297,665	6	49,610	7	42,523	6
Vermont,.....	280,657	6	48,776	5	56,132	5
New York,.....	1,918,553	40	47,964	41	46,794	40
New Jersey,.....	319,922	7	45,970	6	33,320	6
Pennsylvania, ...	1,348,072	28	46,145	29	46,485	28
Delaware,.....	75,432	2	37,716	1	75,432	1
Maryland,.....	405,843	9	45,049	8	50,435	8
Virginia,.....	1,023,503	21	48,738	22	45,613	21
North Carolina,.....	639,747	13	49,211	14	45,669	13
South Carolina,.....	455,025	10	45,502	9	50,558	9
Georgia,.....	429,811	9	47,746	10	42,981	9
Kentucky, ...	621,832	13	47,833	14	44,416	13
Tennessee, ...	625,263	13	48,097	14	44,061	13
Ohio,.....	935,882	20	46,794	19	49,251	19
Indiana,.....	343,030	7	49,004	8	42,878	7
Mississippi,.....	110,358	2	55,129	3	36,766	2
Illinois.....	157,147	3	52,362	4	39,283	3
Louisiana,.....	171,904	4	42,927	3	57,301	3
Missouri,.....	130,419	3	43,473	2	65,209	2
Alabama,.....	262,508	6	43,751	5	52,501	5
Totals,.....	11,928,054	251	.....	253	.....	240

NOTE.—The principle laid down by Professor Dean appears to be this: Each State should have that share of representation which bears the nearest possible proportion to the ratio assumed.

Thus Massachusetts, with 610,000 people, if the ratio be 47,700, should have 13 Representatives, because 13 bears the nearest possible proportion to 47,700.

As 13 is to 1, so is 610,000 to 46,923.
As 12 is to 1, so is 610,000 to 50,833.

The first result, or 46,923, is nearer to 47,700, the assumed ratio, than the last result, or 50,833. The number 13, therefore, is more nearly apportioned to the assumed ratio than 12; and further trial of numbers will prove it to bear the nearest possible proportion to 47,700.

Mr. Dean considers that, the ratio being assumed, the number of the House, and of each State's share of representation, should be apportioned to the ratio. The error of the bill is thus shown: its ratio bears no proportion, either to the whole number of the House, or to the respective quotas of representation of the several States. Its ratio is arbitrary, and its proposed number of the House is arbitrary; that is, the number is not to be found by any process: the necessary consequence is, that no State's share of the House is found by any rule of proportion.

The number of the House being fixed, the ratio should be found by proportion. As 241, e. g.: 1 :: 11,988,731: 49,496.

Thus, for a House of 241, the true ratio is found to be 49,496; then, by the rule of Professor Dean, each State is entitled to that number of Representatives which, when divided into its whole federative population, produces a quotient or ratio approximating nearest to the true ratio, 49,496; in other words, each State is entitled to that number of Representatives which bears the nearest possible proportion to the true ratio.

SPEECH

IN THE SENATE OF THE UNITED STATES, ON THE BILL FOR RENEWING THE CHARTER OF THE BANK OF THE UNITED STATES, MAY 25, 1832.

Mr. Webster said, that, though he was entirely satisfied with the general view taken by the chairman of the committee (Mr. Dallas), and with his explanation of the details of the bill, yet there were a few topics, upon which he desired to offer some remarks; and if no other gentleman wished, at present, to address the Senate, he would avail himself of this opportunity.

A considerable portion of the active part of life has elapsed, said Mr. W., since you and I, Mr. President, and three or four other gentlemen, now in the Senate, acted our respective parts in the passage of the bill creating the present Bank of the United States. We have lived to little purpose, as public men, if the experience of this period has not enlightened our judgments, and enabled us to revise our opinions; and to correct any errors into which we may have fallen, if such errors there were, either in regard to the general utility of a National Bank, or the details of its constitution. I trust it will not be unbecoming the occasion, if I allude to your own important agency in that transaction. The bill incorporating the Bank, and giving it a constitution, proceeded from a Committee in the House of Representatives of which you were Chairman, and was conducted through that House under your distinguished lead. Having recently looked back to the proceedings of that day, I must be permitted to say, that I have perused the speech by which the subject was introduced to the consideration of the House, with a revival of the feeling of approbation and pleasure with which I heard it; and I will add, that it would not, perhaps, now be easy to find a better brief synopsis of those principles of currency and of banking, which, since they spring from the nature of money and of commerce, must be essentially the same, at all times, in all commercial communities, than that speech contains. The other gentlemen now with us in the Senate, all of them, I believe, concurred with the Chairman of the Committee, and voted for the bill. My own vote was against it. This is a matter of lit-

tle importance; but it is connected with other circumstances, to which I will, for a moment, advert. The gentlemen with whom I acted, on that occasion, had no doubts of the Constitutional power of Congress to establish a National Bank; nor had we any doubts of the general utility of an institution of that kind. We had, indeed, most of us, voted for a Bank, at a preceding session. But the object of our regard was not whatever might be called *a Bank*. We required that it should be established on certain principles, which alone we deemed safe and useful, made subject to certain fixed liabilities, and so guarded, that it could neither move voluntarily, nor be moved by others, out of its proper sphere of action. The bill, when first introduced, contained features to which we should never have assented, and we set ourselves accordingly to work with a good deal of zeal, in order to effect sundry amendments. In some of these proposed amendments, the Chairman, and those who acted with him, finally concurred. Others they opposed. The result was, that several most important amendments, as I thought, prevailed. But there still remained, in my opinion, objections to the bill, which justified a persevering opposition, till they should be removed.

The first objection was to the magnitude of the capital. In its original form, the bill provided for a capital of thirty-five millions, with a power in Congress to increase it to fifty millions. This latter provision was struck out on the motion of a very intelligent gentleman from New York (Mr. Cady), and, I believe, Sir, with your assent. But I was of opinion that a capital of thirty-five millions was more than was called for by the circumstances of the country. The capital of the first Bank was but ten millions; and it had not been shown to be too small; and there certainly was no good ground to say, that the business or the wants of the country had grown, in the mean time, in the proportion of thirty-five to ten. But the state of things has now become changed. A greatly-increased population, and a greatly-extended commercial activity, especially in the West and South-west, evidently require an enlarged capacity in the National Bank. The capital, therefore, is less disproportionate to the occasion than it was sixteen years ago; and whatever of disproportion may be thought still to exist, will be constantly decreasing. The augmentation of Banking capital in State institutions is by no means a reason for reducing the capital of this Bank. At first view, there might appear to be some reason in such a suggestion; but I think further reflection on the duties expected to be performed by the Bank, in relation to the general currency of the country, will reject it. On the whole, I am disposed to continue the capital as it is.

There was another objection. The bill had divided the stock into shares of one hundred dollars each, not of four hundred dol-

lars each, as in the first Bank; and it had established such a scale of voting by the stockholders, as showed it to be quite practicable for a minority in interest to control all elections, and to seize on the entire direction of the Bank. It was on this very ground, it was under the apprehension of this very evil, that the last attempt to amend the bill, made by me, proceeded. That attempt was, a motion to diminish the number of shares by raising the amount of each from one hundred dollars to four hundred.

There was yet one other provision of the bill, which was regarded as unnecessary and objectionable. That was, the power reserved to the Government of appointing five of the directors. We had no experience of our own of the effect of such Government interference in the direction of the Bank; and in other countries it had been found that such connection between Government and Banking institutions, produced nothing but evil. The credit of Banks has generally been very much in proportion to their independence of Government control. While acting on true commercial principles, they are useful both to Government and people; but the history of the principal moneyed institutions of Europe has demonstrated, that their efficiency and stability consist very much in their freedom from all subjection to State interests and State necessities. The real safety to the public lies in the restraints and liabilities imposed by law, and in the interest which the proprietors themselves have in a judicious management of the affairs of the corporation. I will only say, on this part of the subject, that it is unquestionably true, that the successful career of this institution then commenced, when its stock, leaving the hands of speculation, came to be owned, for the common purposes of investment, by such as desired to make investments, and when the proprietors exercised their proper discretion in constituting their part of the direction, with a single view of giving to the Bank a safe and competent administration.

The question now is, Sir, whether this institution shall be continued. We ought to treat it as a great public subject; to consider it, like statesmen, as it regards the great interests of the country, and with as little mixture as possible of all minor motives.

The influence of the Bank, Mr. President, on the interests of the Government, and the interests of the people, may be considered in several points of view. It may be regarded as it affects the currency of the country; as it affects the collection and disbursement of the public revenue; as it respects foreign exchanges; as it respects domestic exchanges; and as it affects, either generally or locally, the agriculture, commerce, and manufactures of the Union.

First, as to the currency of the country. This is, at all times, a most important political object. A sound currency is an essential

and indispensable security for the fruits of industry and honest enterprise. Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium; such a medium as shall be a real and substantial representative of property, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but made stable and secure by its immediate relation to that which the whole world regards as of a permanent value. A disordered currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality and economy; and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with fraudulent currencies, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression, on the virtuous and well disposed, of a degraded paper currency, authorized by law, or in any way countenanced by Government.

We all know, Sir, that the establishment of a sound and uniform currency was one of the great ends contemplated in the adoption of the present Constitution. If we could now fully explore all the motives of those who framed, and those who supported that Constitution, perhaps we should hardly find a more powerful one than this. The object, indeed, is sufficiently prominent on the face of the Constitution itself. It cannot well be questioned, that it was intended by that Constitution to submit the whole subject of the currency of the country, all that regards the actual medium of payment and exchange, whatever that should be, to the control and legislation of Congress. Congress can alone coin money; Congress can alone fix the value of foreign coins. No State can coin money; no State can fix the value of foreign coins; no State (nor even Congress itself) can make any thing a tender but gold and silver, in the payment of debts; no State can emit bills of credit.—The exclusive power of regulating the metallic currency of the country would seem necessarily to imply, or, more properly, to include, as part of itself, a power to decide how far that currency should be exclusive, how far any substitute should interfere with it, and what that substitute should be. The generality and extent of the power granted to Congress, and the clear and well-defined prohibitions

en the States, leave little doubt of an intent to rescue the whole subject of currency from the hands of local legislation, and to confer it on the General Government. But, notwithstanding this apparent purpose in the Constitution, the truth is, that the currency of the country is now, to a very great extent, practically and effectually under the control of the several State Governments; if it be not more correct to say, that it is under the control of the Banking institutions, created by the States; for the States seem first to have taken possession of the power, and then to have delegated it.

Whether the States can Constitutionally exercise this power, or delegate it to others, is a question which I do not intend, at present, either to concede or to argue. It is much to be hoped, that no controversy on the point may ever become necessary. But it is matter highly deserving of consideration, that, although clothed by the Constitution with exclusive power over the metallic currency, Congress, unless through the agency of a Bank established by its authority, has no control whatever over that which, in the character of a mere representative of the metallic currency, fills up almost all the channels of pecuniary circulation.

In the absence of a Bank of the United States, the State Banks become effectually the regulators of the public currency. Their numbers, their capital, and the interests connected with them, give them, in that state of things, a power which nothing is competent to control. We saw, therefore, when the late war broke out, and when there was no National Bank in being, that the State institutions, of their own authority, and by an understanding among themselves, under the gentle phrase of suspending specie payments, every where south of New England, refused payment of their notes, and thus filled the whole country with irredeemable and degraded paper. They were not called to answer for this violation of their charters, as far as I remember, in any one State. They pleaded the urgency of the occasion, and the public distresses; and in this apology the State Governments acquiesced. Congress, at the same time, found itself in an awkward predicament. It held the whole power over coins. No State, or State institution, could give circulation to an ounce of gold or of silver, not sanctioned by Congress. Yet all the States, and a hundred State institutions, claimed and exercised the right of driving coin out of circulation by the introduction of their own paper; and then of depreciating and degrading that paper, by refusing to redeem it. As they were not institutions created by this Government, they were not answerable to it. Congress could not call them to account, and, if it could, Congress had no Bank of its own, whose circulation could supply the wants of the community. Coin, the substantial constituent, was, and was admitted to be, subject only to the control of Congress; but paper, assuming to be a representative of this constituent,

was taking great liberties with it, at the same time that it was no way amenable to its Constitutional guardian.—This suspension of specie payments was of course immediately followed by great depreciation of the paper. It shortly fell so low, that a bill on Boston could not be purchased at Washington under an advance of from 20 to 25 per cent. I do not mean to reflect on the proceedings of the State Banks. Perhaps their best justification is to be found in the readiness with which Government itself borrowed of them their paper, depreciated as it was; but it certainly becomes us to regard, attentively, this part of our experience, and to guard, as far as we can, against similar occurrences.

I am of opinion, Sir, that a well-conducted National Bank has an exceedingly useful and effective operation on the general paper circulation of the country. I think its tendency is manifestly to restrain, within some bounds, the paper issues of other institutions. If it be said, on the other hand, that these institutions, in turn, hold in check the issues of the National Bank, so much the better. Let that check go to its full extent. An over-issue, even by the Bank itself, no one can desire. But it is plain, that by holding State institutions, which come into immediate contact with itself and its Branches, to an accountability for their issues, not yearly or quarterly, but daily and hourly, an important restraint is exercised. Be it remembered always, that what it is to expect from others, it is to perform itself; and that its own paper is at all times to turn into coin by the first touch of its own counter.

But, Mr. President, so important is this object, that I think, that, far from diminishing, we ought rather to increase and multiply our securities; and I am not prepared to say that, even with the continuance of the Bank charter, and under its wisest administration, I regard the state of our currency as entirely safe. It is evident to me that the general paper circulation has been extended too far for the specie basis on which it rests. Our system, as a system, dispenses too far, in my judgment, with the use of gold and silver. Having learned the use of paper, as a substitute for specie, we use the substitute, I fear, too freely. It is true, that our circulating paper is all redeemable in gold and silver. Legally speaking, it is all convertible into specie at the will of the holder. But a mere legal convertibility is not sufficient. There must be an actual, practical, never-ceasing convertibility. This, I think, is not at present sufficiently secured; and, as it is a matter of high interest, it well deserves the serious consideration of the Senate. The paper circulation of the country is at this time probably seventy-five or eighty millions of dollars. Of specie, we may have twenty or twenty-two millions; and this principally in masses, in the vaults of the banks. Now, Sir, this

is a state of things, which, in my judgment, leads constantly to over-trading, and to the consequent excesses and revulsions which so often disturb the regular course of commercial affairs. A circulation consisting in so great a degree of paper, is easily expanded, to furnish temporary capital to such as wish to adventure on new enterprises in trade; and the collection in the Banks of most of what specie there is in the country affords all possible facility for its exportation. Hence, over-trading does frequently occur, and is always followed by an inconvenient, sometimes by a dangerous, reduction of specie. It is in vain that we look to the prudence of the Banks for an effectual security against over-trading. The directors of such institutions will generally go to the length of their means in cashing good notes, and leave the borrower to judge for himself of the useful employment of his money. Nor would a competent security against over-trading be always obtained, if the Banks were to confine their discounts, strictly, to business paper, so denominated; that is, to notes and bills which represent real transactions, having been given and received on the actual purchase and sale of merchandise; because these transactions themselves may be too far extended. In other words, more may be bought than the wants of the community require, on a speculative calculation of future prices. Men naturally have a good opinion of their own sagacity. He who believes merchandise is about to rise in price, will buy merchandise, if he possesses money, or can obtain credit. The fact of actual purchase, therefore, is not proof of a really subsisting want; and of course the amount of all purchases does not correspond always with the entire wants or necessities of the community. Too frequently it very much exceeds that measure. If, then, the discretion of the Banks, exercised in deciding the amount of their discounts, is not a proper security against over-trading—if facility in obtaining Bank credits naturally fosters that spirit—if the desire of gain and love of enterprise constantly cherish it—and if it finds specie collected in the Banks inciting exportation, what is the remedy suited and adequate to the case? Now, I think, Sir, that a closer inquiry into the direct source of the evil will suggest the remedy. Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it by the great amount of small bank notes. In most of the States, the Banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed in Parliament to authorize the Bank of England to issue one pound

notes, Mr. Burke lay sick at Bath of an illness from which he never recovered; and he is said to have written to the late Mr. Canning, "Tell Mr. Pitt that, if he consents to the issuing of one pound notes, he must never expect to see a guinea again."

The one pound notes were issued, and the guineas disappeared. A similar cause is producing now a precisely similar effect with us. Small notes have expelled dollars and half dollars from circulation in all the States in which such notes are issued. On the other hand, dollars and half dollars abound in those States which have adopted a wiser and safer policy. Virginia, Pennsylvania, Maryland, Louisiana, and some other States, I think seven in all, do not allow their Banks to issue notes under five dollars. Every traveller notices the difference, when he passes from one of these States into those where small notes are allowed. The evil, then, is the issuing of small notes by State Banks. Of these notes, that is to say, of notes under five dollars, the amount now in circulation is doubtless eight or ten millions of dollars. Can these notes be withdrawn? If they can, their place will be immediately supplied by a specie circulation of equal amount. The object is a great one, as it is connected with the safety and stability of the currency, and may well justify a serious reflection on the means of accomplishing it. May not Congress and the State Governments, acting, not unitedly, but severally, to the same end, easily and quietly attain it? I think they may. It is but for other States to follow the good example of those which I have mentioned, and the work is done. As an inducement to the States to do this, I propose, in the present bill, to reserve to Congress a power of withdrawing from circulation a pretty large part of the issues of the Bank of the United States. I propose this, so that the State Banks may withdraw their small notes, and find their compensation in a larger circulation of those of a higher denomination.—My proposition will be, that, at any time after the expiration of the existing charter of the Bank, that is, after 1836, Congress may, if it see fit, restrain the Bank from issuing for circulation notes or bills under a given sum—say, ten or twenty dollars. This will diminish the circulation, and consequently the profits, of the Bank; but it is of less importance to make the Bank a highly-profitable institution to the stockholders, than that it should be safe and useful to the community. It ought not, certainly, to be restrained from the enjoyment of all the fair advantages to be derived from the discreet use of its capital in banking transactions; but the leading object, after all, in its continuance, is, and ought to be, not private emolument, but public benefit.

It may, perhaps, strike some gentlemen, that the circulation of small notes might be effectually discouraged, by refusing to receive not only all such small notes, but all notes of such Banks

as issued them, at the custom-houses, land-offices, post-offices, and other places of public receipt, and by causing them to be refused also, either in payment or deposit, at the Bank of the United States. But the effect of such refusal may be doubtful. It would certainly, in some degree, discredit such notes; but probably it would not drive them out of circulation altogether; and if it should not do this, it might very probably increase their circulation. If in some degree they become discredited, to that degree they would become cheaper than other notes; and universal experience proves, that of two things which may be current, the cheaper will always expel the other. Thus, silver itself, because it is proportionally cheaper with us than gold, has driven the gold out of the country; that is to say, we can pay a debt of one hundred dollars, by tendering that number of Spanish or American dollars. But we cannot go into the market, and buy ten American eagles for these hundred silver dollars. They would cost us a hundred and four. Thus, as we can pay our debts cheaper in silver than in gold, we use nothing but silver, and the gold goes where it is more highly valued. The same thing always happens between two sorts of paper, which are found at the same time in circulation. That which is cheapest, or of less value than the other, always drives its more respectable associate out of its company.

Measures, therefore, such as I have alluded to, would be likely, I fear, rather to aggravate, than to remedy, the evil. We must hope that all notes under five dollars may be entirely withdrawn from circulation, by the consent of the States and the State Banks; and when that shall be done, their place will be immediately supplied with specie. We should then receive an accession of ten millions of dollars, at least, to our specie circulation; and these ten millions will find their place, not in the Banks, not collected any where in large masses, but in constant use, among all classes, and in hourly transfer from hand to hand. It cannot be denied that such an addition would give great strength to our pecuniary system, discourage excessive exportation of specie, and tend to restrain and correct the evils of over-trading. England has applied the like remedy to a similar evil, though she has carried the restriction much higher, and allowed the circulation of no notes for less sums than five pounds sterling.

I have thought this subject, Mr. President, of so much importance, as that it was fit to present it, at this time, to the consideration of the Senate. I propose to do no more at present than to insert such a provision as I have described in this bill. In the mean time, I hope the matter may attract the attention of those whose agency will be desired to accomplish the general object.

The next point on which I will offer a few remarks, is the great advantage of the Bank in the operations of the Treasury;

first, in the collection, next, in the disbursement, of the revenue. How is the revenue to be collected through all the custom-houses, the land-offices, and the post-offices, without some such means as the Bank affords? Where are payments made at the custom-houses to be deposited? In whose hands are these large sums to be trusted? And how are they to be remitted to Washington, or wherever else they may be wanted? I dare say, Sir, that the operations of Government might be carried on in some way without the agency of a Bank; but the question is, whether they could be carried on safely, without loss and without charge. Look to the disbursement of the revenue. At present, the Bank is bound to transmit Government funds in one place to any other place, without expense. A dollar at St. Louis or Nashville becomes a dollar in New Hampshire or Maine, if the Treasury so choose. This certainly is very useful and convenient. If there were no Bank of the United States, at New Orleans for example, duties to the Government at that place must be received either in specie or in bills of local Banks. If in the former, the funds could not be remitted where they might be required, without considerable expense; if in the latter, they could not be remitted at all, until first converted into specie. If bills of exchange were resorted to, they would be often not to be had without a premium, and always attended with more or less risk. In short, the utility of the Bank, in collecting and disbursing the revenue, is too obvious to be argued, and too great not to strike any one, conversant with such subjects, without the aid of comment.

I have alluded to its dealings in foreign exchanges as one of the most important powers of the corporation. There are those who think this power ought to be withheld. It is, I think, one of the most common objections to the Bank in the large cities; but I do not think it well founded. It is said that the trade in exchange ought to be left free, like other traffic. Be it so; but then why not leave it as free to the Bank as to others? The Bank enjoys no monopoly. If it be true, that, by the magnitude of its capital, and the distribution of its several offices, it acts upon the rates of exchange, not locally but generally, and thus occasionally restrains the profit of dealing in one place, by bringing the general rates through the whole country nearer to a uniformity, the occasional profits of individuals may be lessened, but the general effect is beneficial to the public. If, at the same time that it keeps the domestic exchanges of the country at low rates, it keeps the rates of foreign exchanges nearly uniform and level, I hardly know how it could do greater service to the commercial community. In the business of foreign exchange, the Bank has, and always will have, powerful rivals. It is natural that these rivals should desire that, in this particular, the Bank should retire from business. But are

its dealings in exchange found prejudicial by those who deal in it themselves no further than to buy for their own remittances in the ordinary way of business? In things of this kind, we may most safely guide ourselves by the light of experience; and, taking it for granted that the general interest of the trading community is injured by sudden fluctuations in exchange, and benefited by keeping it as steady as the commerce of the country will allow,—in other words, by keeping the price of bills so as that it corresponds with the real state of the exchange, and not raised or lowered for ends of speculation,—I have inquired of those who could inform me, whether, for ten or twelve years past, the rates of exchange have, or have not, been as steady and unvarying as may ever be expected; and the information I have received has satisfied me that the power of the Bank of dealing in foreign exchange has been far from prejudicial to the commercial world. While there is a dealer with competent funds and credit, always willing to sell foreign bills at moderate rates, and always ready to buy them, also, the very nature of the case furnishes a considerable degree of security against those fluctuations which arise from speculation, although it leaves private dealings entirely free.

If that power should be now taken away from the Bank, I think I can perceive that consequences of some magnitude would follow, in particular parts of the country. At present, the producer, or the shipper of produce, at New Orleans, Savannah, or Charleston, in making shipment for Europe, can, on the spot, cash his bill, drawn against such shipment, without charge for brokerage, guarantee, or commission. If the planter has sold to the shipper, the latter has his bill discounted, and pays the planter, who thus receives the price for his crop, without delay, and without danger of loss. Suppose the Bank were denied the power of purchasing foreign bills, what would be the necessary operation? The producer or shipper might send the cotton or the sugar to the North, and in that case the Bank could cash his draft. But if he sent it abroad, his bill must be sent to his agent, in the bill market of the northern cities, for sale; and if he wishes to realize the amount, he will draw on his agent, and sell such draft. This evidently subjects him to a double operation, and to the expenses of commission, guarantee, &c.

It is plain, I think, that, in the present state of things, the shipper of southern and western produce enjoys the benefit of both the foreign and the northern market more perfectly than he would if this state of things were to be so changed, that he could not draw on his consignee in the foreign market as advantageously as he can now do it.

But, if there be a question about the utility of the operations of the Bank, in foreign exchange, there can be none, I suppose, as

to its influence on that which is internal, or domestic. I speak now of internal exchange, as exchange merely; without considering it connected, as it usually is, with advance, or discount, in anticipation of the maturity of bills. In regard to mere exchange, the operations of the Bank appear to have produced the most beneficial effect. I doubt whether, in any extensive country, the rates of internal exchange ever averaged so low. Before the Bank went into operation, three, four, or five per cent. was not uncommon as the difference of exchange between one extremity of the country and the other. It has at times, indeed, as I am informed, been as high as six per cent. between New Orleans and Baltimore; and, indeed, between other places in this country much higher. The vast amounts bought and sold by the Bank, in all parts of the country, average, perhaps, less than one half of one per cent. I doubt whether this exceeds the rates between comparatively neighboring parts of Great Britain, or of the continent of Europe—although much of it consists in exchange between the extreme south and the northern and eastern parts of the Union.

With respect to the effect and operation of the Bank upon the general interests of agriculture, commerce, and manufactures, there will be found a great difference as we look at different parts of the country. Every where, I think, they have been salutary; but they have been important in very different degrees in different quarters. The influence of the Bank on the general currency of the country, and its operations in exchanges, are benefits of a general nature. These are felt all over the country. But in loans and discounts—in the distribution and actual application of its capital—different portions of the country have partaken, and are partaking, in very different degrees. The West is a new and fast-growing country, with vast extents of rich land, inviting settlement and cultivation. Enterprise and labor are thronging to this scene of useful exertion, and necessarily create an urgent demand for capital. This demand the Bank meets to a very considerable degree. The reports of the Bank show the existing extent of its accommodation to this part of the country. In the whole Southern and Western States, that is to say, south and west of Philadelphia, the amount exceeds forty-three millions of dollars. In the States lying on the Mississippi and its waters, it exceeds thirty millions of dollars. Of these thirty millions, nineteen or twenty are discounts of notes, and the residue of acceptances of bills drawn on other parts of the country. This last amount is not strictly a loan; it is an advance in anticipation of a debt; but other advances are needed, quite as fast as this is paid off, as every successive crop creates a new occasion, and a new desire to sell bills. I leave it to western gentlemen to judge how far this state of things goes to show that the continuance of the Bank is important to the agri-

culture and commerce of the West. I leave it to them to contemplate the consequences of withdrawing this amount of capital from their country. I pray them also to inquire what is to be their circulating medium, when the notes of the Bank are called in? Do they see before them neither difficulty, nor danger, in this part of the case? Are they quite confident, that, in the absence of the bills and notes of the Bank of the United States, they need have no fears of a bad currency, depreciated paper, and the long train of ills that follow, according to all human experience, those inauspicious leaders? I ask them, also, to judge how far it is wise to settle this question now, so as to give time for making this vast change, if it is to be made at all. The present charter is to continue but four years. If it be not renewed, this debt must be called in within that period. Not a new note can be taken to the Bank for a dollar of it, after that time. The whole circulation of bank notes, too, must be withdrawn. Is it not plain, then, that it is high time to know how this important matter is to be adjusted? The country could not stand a sudden recall of all this capital, and an abrupt withdrawal of this circulation. How, indeed, the West could stand the change, even if it were begun now, and conducted as gradually and as gently as possible, I confess, I can hardly see. The very commencement of the process of recall, however slight, would be felt in the prices of the very first crop, partly from the immediate effect of withdrawing even a small part of the capital, and partly from the certainty of future pressure from withdrawing the rest. Indeed, gentlemen must prepare themselves, I think, for some effect on prices of lands and commodities by the postponement of this question, should it take place, as well as for embarrassments in other respects. That postponement will, at best, not diminish the uncertainty which hangs over the fate of the measure. Seeing the hostility which exists to renewing the charter, and the extent of that hostility, if the measure cannot now be carried, not only a prudent regard to its own interests, but the highest duty to the country, ought to lead the Bank to prepare for the termination of its career. It has not before it one day too many to enable it to wind up, without distressing the public, such vast concerns. If it were certain, that the charter was to be renewed, a postponement would be of little importance. But this is uncertain, and a postponement would render it more uncertain. A motion to postpone, should such be made, will be mainly supported by those, who, either on Constitutional grounds, or some other grounds, are and always will be against the renewal. A postponement, under such circumstances, and such auspices, cannot but create far stronger doubts than now exist of the final renewal of the charter. It is now two years and a half since the President invited the attention of Congress to

this subject. That invitation has been more than once repeated. Every where, the subject has been considered; every where, it has been discussed. The public interest now requires our decision upon it, and the public voice demands that decision. I trust, Sir, we shall make it, and make it wisely.

Mr. President, the motives which prescribe my own line of conduct, on this occasion, are not drawn from any local considerations. The State in whose representation I bear a part, has as little interest peculiar to itself, in the continuance of this corporation, as any State in the Union. She does not need the aid of its capital, because the state of her commerce and manufactures does not call for the employment of more capital than she possesses. She does not need it, in a peculiar degree, certainly, as any restraint or corrective on her own paper currency. Her Banks are as well conducted as those of other States. But she has a common interest in the continuance of a useful institution. She has an interest in the wise and successful administration of the Government, in all its departments. She is interested that the general currency of the country should be maintained in a safe and healthy state. She derives a benefit with others (I believe it a great benefit) from the facility of exchanges in internal commerce, which the Bank affords. This is the sum of her motives. For these reasons, she is willing that the Bank should be continued. But if the matter should be otherwise determined, however much she might regret it on general and public grounds, she certainly does not apprehend, from such a result, inconveniences to her own citizens, such as may and must fall, so far as I can see, on some others.

Mr. President, I will take leave of the subject for the present, with a remark which I think is due from me. For some years past, I have not been inattentive to the general operations of the Bank, or to their influence on the public interests and the convenient administration of the Government; and I take the occasion to say, with sincerity and cheerfulness, that, during that period, its affairs have been conducted, in my opinion, with fidelity, as well towards the Government, as towards its own stockholders; and that it has sought the accomplishment of the public purposes designed by its institution with distinguished ability and distinguished success.

MAY 28, 1832.

THE question being on the amendment offered by Mr. Moore, of Alabama, proposing, "First, That the Bank shall not establish or continue any Office of Discount or Deposit, or Branch Bank, in any State, without the consent and approbation of the State—Second, That all such Offices and Branches shall be

subject to taxation, according to the amount of their loans and issues, in like manner as other Banks or other property shall be liable to taxation"—

Mr. Webster said, he trusted the Senate would not act on these propositions, without fully understanding their bearing and extent. For my own part, said he, I look upon the two parts of the amendment as substantially of the same character. Each, in my opinion, confers a power in the States to expel the Bank at their pleasure; in other words, entirely to defeat the operations, and destroy the capacity for usefulness, of the whole Bank. The simple question is, Shall we, by our own act, in the charter itself, give this States' permission to expel the Bank and all its Branches from their limits, at their own pleasure. The first part of the amendment gives this permission in express terms; and the latter part gives it in effect, by authorizing the States to tax the loans and issues of the Bank, with no effectual limitation. It appears to me idle to say, that this power may be safely given, because it will not be exercised. It is to be given, I presume, on the supposition that probably some of the States will choose to exercise it; else why is it given at all? And will they not so choose? We have already heard, in the course of this debate, of two cases in which States attempted to exercise a power of this kind, when they did not Constitutionally possess it. Two States have taxed the Branches, for the avowed purpose of driving them out of their limits, and were prevented from accomplishing this object merely by force of judicial decisions against their right. If, then, these attempts have been made to exercise this power, when it was not legally possessed, and against the will of Congress, is there any doubt that it will be exercised when its exercise shall be permitted and invited by the proposed amendment? No doubt, in my mind, the power, if granted, will be exercised, and the main object of continuing the Bank thus defeated.

I have already said, that the second branch of the amendment is as objectionable and as destructive as the first. I think it so. It appears to me to give ample power, by means of taxation, to expel the Bank from any State which may choose to expel it. It gives a power of taxation, without fixed limits, or any reasonable guards. And a power of taxation, without fixed limits, and without guards, is a power to embarrass, a power to oppress, a power to expel, a power to destroy. The States are to be allowed to tax the Branches *according to the amount of their loans and discounts*, in like manner as other Banks, or other property in the State, shall be liable to taxation.

Now, Sir, some of the States have no Banks. Of course they tax no Banks. In other States, the Banks pay the State a *bonus*, on their creation, and are not otherwise taxed. In other cases, the State, in effect, itself owns the Bank, and a tax on it, therefore,

would be merely nominal. Besides, no State is to be bound to lay this tax, as it taxes its own Banks. It has an option to tax it in that manner, *or as other property is taxed.* What other property? It may be as lottery tickets, gaming tables, or other things, which may be deemed fit to be discouraged or suppressed, are taxed. The Bank may be classed with other nuisances, and driven out or put down by taxation. All this is perfectly within the scope of the amendment. The license is broad enough to authorize any thing which may be designed or wished.

Now, Sir, in the first place, I doubt exceedingly our power to adopt this amendment, and I pray the deliberate consideration of the Senate, in regard to this point. In the first place, let me ask, What is the Constitutional ground on which Congress created this corporation, and on which we now propose to continue it? There is no express authority to create a Bank, or any other corporation, given to us by the Constitution. The power is derived by implication. It has been exercised, and can be exercised, only on the ground of a just necessity. It is to be maintained, if at all, on the allegation, that the establishment of a National Bank is a just and necessary means of carrying on the Government, and of executing the powers conferred on Congress by the Constitution. On this ground Congress has established this Bank, and on this it is now proposed to be continued. And it has already been judicially decided, that, Congress having established a Bank for these purposes, *the Constitution of the United States prohibits the States from taxing it.* Observe, Sir, it is the *Constitution,* not the *Law,* which lays this prohibition on the States. The charter of the Bank does not declare that the States shall not tax it. It says not one word on that subject. The restraint is imposed, not by Congress, but by a higher authority, the Constitution. Now, Sir, I ask how *we* can relieve the States from this Constitutional prohibition. It is true, that this prohibition is not imposed in express terms; but it results from the general provisions of the Constitution, and has been judicially decided to exist in full force. This is a protection, then, which the Constitution of the United States, by its own force, holds over this instrument, which Congress has deemed necessary to be created, in order to carry on the Government, so soon as Congress, exercising its own judgment, has chosen to create it. Can we throw off from this Government this Constitutional protection? I think it clear we cannot. We cannot repeal the Constitution. We cannot say that every power, every branch, every institution, and every law of this Government, shall not have all the force, all the sanction, and all the protection, which the Constitution gives it. By the Constitution every law of Congress is finally to be considered, and its construction ultimately settled by the Supreme Court of the United States. These

very acts, before referred to, taxing the Banks, were held valid by more or fewer of the States' Judicatures, but were finally pronounced unconstitutional by the Supreme Court of the United States; and this, not by force of any words in the charter, but by force of the Constitution itself. I ask, whether it is competent for us to reverse this provision of the Constitution, and to say that the laws of Congress shall receive their ultimate construction from the State Courts? Again: the Constitution gives Congress a right to lay duties of impost, and it prohibits the exercise of any such power by the States. Now, it so happens, that the national treasury is full, and the State treasuries are far less so. It might be thought very convenient that a part of the receipts at the custom-houses should be received by the States. But will any man say, that Congress could now authorize the States to lay and collect imposts under any restrictions or limitations whatever? No one will pretend it. That would be to make a new partition of power between this Government and the State Governments. Mr. Madison has very correctly observed, that the assent of the States cannot confer a new power on Congress, except in those cases especially provided in the Constitution. This is very true, and it is equally true that the States cannot obtain a new power, by the consent of Congress, against the prohibition of the Constitution, except in those cases which are expressly so provided for, in the Constitution itself.

These reasons, Sir, lead me to think that, if, for purposes connected with the beneficial administration of the Government, we deem it necessary to continue this corporation, we are not at liberty to repeal any protection, or any immunity, with which the Constitution surrounds it. We cannot give to a law of the United States less than its Constitutional effect. The Constitution says, that every such law, passed in pursuance of the Constitution, shall be paramount to any State law. We cannot enact that it shall not be so; for that would be to repeal, so far, the Constitution.

Allow me now, Mr. President, to inquire on what ground it is that the States claim this power of taxation. They do not claim it as a power to tax all property of their own citizens. This they possess, without denial or doubt. Every stockholder in the Bank is liable to be taxed for his property therein, by the State of which he is a citizen. This right is exercised, I believe, by all the States which lay taxes on money at interest, income, and other subjects of that kind. It is, then, not that they may be authorized to tax the property of their own citizens. Nor is it because any State does not participate in the advantage of the premium, or bonus, paid by the Bank to Government for the charter. That sum goes into the treasury for the general good of all.

Nor can the claim be sustained, nor, indeed, is it asserted, on the

strength of the mere circumstance that a Branch, or an Office, is established in a State. Such Office, or Branch, is but an agency. It is no body politic or corporate. It has no legal existence of itself. It is but an agent of the general corporation. That these agents have their residence, or place of business, in a particular State, is not of itself the foundation of any claim. But, according to the language of the amendment, the ground of this claim to tax is evidently *the loans and issues;* and these loans and issues, properly speaking, are the loans and discounts of the Bank. The Office, as an agent, conducts the arrangements, it is true; but the notes which are issued are notes of the Bank, and the debts created are debts due to the Bank. *The circulation is the circulation of the Bank.* Now, the truth is, what the States claim, or what this amendment proposes to give them, is *a right to tax the circulation of the Bank.* It is on this right that the argument rests. The common way of stating it is, that since State Banks pay a tax to the State, these Branch Banks, coming among them, ought to pay a similar tax. But the State Banks pay the tax to the State *for the privilege of circulation;* and the proposition is, therefore, neither more nor less than that the United States' Bank shall pay the States for the same privilege. The circulation of the bills is the substance. The locality of the Office is but an incident. An Office is created, for example, on Connecticut River, either in Massachusetts, Vermont, Connecticut, or New Hampshire. The notes of the Bank are loaned at this Office, and put into circulation in all these States. Now, no one will say that the State where the Office happens to be placed should have a right to lay this tax, and the other States have no such right. This would be a merely arbitrary distinction. It would be founded on no real or substantial difference; and no man could seriously contend for it, as it seems to me. Under this very amendment, Pennsylvania would be authorized to collect a large tax, and New Jersey no tax at all, although the State circulation of New Jersey is as much infringed and diminished as that of Pennsylvania by the circulation of the Bank of the United States. The States which have the benefit of Branches (if it be a benefit) are to have the further advantage of taxation; while other States are to have neither the one nor the other. Founding the claim on the State right to derive benefit from the paper circulation which exists within it, the advocates of the claim are clearly not consistent with themselves, when they maintain a measure which professes to protect that right in some States, and to leave it unprotected in others.

But the inequality of the operation of this amendment is not the only, nor the main, objection to it. It proceeds on a principle not to be admitted. It asserts, or it takes for granted, that the power of authorizing and regulating the paper currency of the

country, *is an exclusive State right.* The ground assumed can be no less broad than this; because, the Bank of the United States having the grant of a power from Congress to issue notes for circulation, its right is perfect, if Congress could make such grant. It owes nothing to the States, if Congress could give what it has undertaken to give; that is to say, if Congress, of its own authority, may confer a right to issue paper for circulation. Now, Sir, whosoever denies this right, in Congress, denies, of course, its power to create such a Bank as now exists; at least, so it strikes me. The Bank of the United States is quite unconstitutional, if the whole paper circulation belongs to the States; because the Bank of the United States is a Bank of circulation, and was so intended to be by Congress, which expressly authorized the circulation of notes and bills. The power of issuing notes for circulation is not an indispensable ingredient in the constitution of a Bank, merely as a Bank. The earlier Banks did not possess it, and many good ones have existed without it. A Bank with no such power might yet very well collect the public revenue (provided there was a proper medium in which it could be paid), could tolerably well remit the revenue to the treasury, and could deal usefully, to some extent, in the business of exchange.

On what ground is it, then, that Congress possesses the power, not only to create a Bank, but a Bank of circulation? Simply, as I suppose, because Congress possesses a Constitutional control over the currency of the country, and has power to provide a safe medium of circulation, as well for other purposes as for the collection of its own debts and revenue. The Bank, therefore, already possesses unconstitutional power, if the paper circulation be the subject, exclusively, of State right or State regulation. Indeed, Sir, it is not a little startling that such exclusive right should now be asserted. I observed, the other day, that, in my opinion, it was very difficult to maintain, on the face of the Constitution itself, and independent of long-continued practice, the doctrine that the States could authorize the circulation of Bank paper at all. They cannot coin money; can they, then, coin that which becomes the actual and almost the universal substitute for money? Is not the right of issuing paper, intended for circulation, in the place and as the representative of metallic currency, derived merely from the power of coining and regulating that metallic currency? As bringing this matter to a just test, let me ask whether Congress, if it had not the power of coining money, and of regulating the value of foreign coins, could create a Bank, with the power to circulate bills. For one, I think it would be difficult to make that out. Where, then, do the States, to whom all control over the metallic currency is altogether prohibited, get this power? It is true that, in other countries, private bankers, having no legal authority over

the coin, issue notes for circulation. But this they do always with the consent of Government, express or implied; and Government restrains and regulates all their operations at its pleasure. It would be a startling proposition, in any other part of the world, that the prerogative of coining money, held by Government, was liable to be defeated, counteracted, or impeded, by another prerogative, held in other hands, of authorizing a paper circulation.

It is further to be observed, that the States cannot issue bills of credit; not that they cannot make them a legal tender, but that they cannot issue them at all. Is not this a clear indication of the intent of the Constitution to restrain the States, as well from establishing a paper circulation, as from interfering with the metallic circulation? Banks have been created by States with no capital whatever; their notes being put into circulation simply on the credit of the State, or the State law. What are the issues of such Banks but bills of credit, issued by the State?

I confess, Mr. President, that, the more I reflect on this subject, the more clearly does my mind approach the conclusion, that the creation of State Banks, for the purpose and with the power of circulating paper, is not consistent with the grants and prohibitions of the Constitution. But, Sir, this is not now the question. The question is, not whether the States have the *exclusive* power; it is, whether they *alone* have the power. May they rightfully *exclude* the United States from all interference with the paper currency? Are we interlopers, when we create a Bank of circulation? Do we owe them *a seignorage* for the circulation of bills, by a corporation created by Congress? Up to the present time, the States have been content with a *concurrent* power. They have, indeed, controlled vastly the larger portion of the circulation; but they have not claimed *exclusive authority over the whole.* They have demanded no tax or tribute from a Bank issuing paper under the authority of Congress. Nor do I know that any State or States now insist upon it. It may be, that individual States have put forth such claims, in their legislative capacity; but, at present, I recollect no instance. The amendment, however, which is now proposed, asserts the claim, and I cannot consent to yield to it. We seem to be making the last struggle for the authority of Congress to interfere at all with the actual currency of the country. I shall never agree to surrender that authority; I would as soon yield the coinage power itself; nor do I think there would be much greater danger, nor a much clearer departure from Constitutional principle, in a consenting to such surrender, than in acquieseing in what is now proposed.

SPEECH

IN THE SENATE OF THE UNITED STATES, ON THE PRESIDENT'S VETO OF THE BANK BILL, JULY 11, 1832.

MR. PRESIDENT: No one will deny the high importance of the subject now before us. Congress, after full deliberation and discussion, has passed a bill for extending the duration of the Bank of the United States, by decisive majorities, in both Houses. It has adopted this measure not until its attention had been called to the subject, in three successive annual messages of the President. The bill having been thus passed by both Houses, and having been duly presented to the President, instead of signing and approving it, he has returned it with objections. These objections go against the whole substance of the law originally creating the Bank. They deny, in effect, that the Bank is Constitutional; they deny that it is expedient; they deny that it is necessary for the public service.

It is not to be doubted, that the Constitution gives the President the power which he has now exercised; but while the power is admitted, the grounds upon which it has been exerted become fit subjects of examination. The Constitution makes it the duty of Congress, in cases like this, to reconsider the measure which they have passed, to weigh the force of the President's objections to that measure, and to take a new vote upon the question.

Before the Senate proceeds to this second vote, I propose to make some remarks upon those objections. And, in the first place, it is to be observed, that they are such as to extinguish all hope, that the present Bank, or any Bank at all resembling it, or resembling any known similar institution, can ever receive his approbation. He states no terms, no qualifications, no conditions, no modifications, which can reconcile him to the essential provisions of the existing charter. He is against the Bank, and against any Bank constituted in a manner known either to this or any other country. One advantage, therefore, is certainly obtained, by presenting him the bill. It has caused his sentiments to be made known. There is no longer any mystery, no longer a con-

test between hope and fear, or between those prophets who predicted a *veto*, and those who foretold an approval. The bill is negatived; the President has assumed the responsibility of putting an end to the Banks; and the country must prepare itself to meet that change in its concerns which the expiration of the charter will produce. Mr. President, I will not conceal my opinion, that the affairs of this country are approaching an important and dangerous crisis. At the very moment of almost unparalleled general prosperity, there appears an unaccountable disposition to destroy the most useful and most approved institutions of the Government. Indeed, it seems to be in the midst of all this national happiness, that some are found openly to question the advantages of the Constitution itself; and many more ready to embarrass the exercise of its just power, weaken its authority, and undermine its foundations. How far these notions may be carried, it is impossible yet to say. We have before us the practical result of one of them. The Bank has fallen, or is to fall.

It is now certain, that, without a change in our public councils, this Bank will not be continued, nor will any other be established, which, according to the general sense and language of mankind, can be entitled to the name. Within three years and nine months from the present moment, the charter of the Bank expires; within that period, therefore, it must wind up its concerns. It must call in its debts, withdraw its bills from circulation, and cease from all its ordinary operations. All this is to be done in three years and nine months; because, although there is a provision in the charter, rendering it lawful to use the corporate name for two years after the expiration of the charter, yet this is allowed only for the purpose of suits, and for the sale of the estate belonging to the Bank, and for no other purpose whatever. The whole active business of the Bank, its custody of public deposits, its transfers of public moneys, its dealing in exchange, all its loans and discounts, and all its issues of bills for circulation, must cease and determine on or before the third day of March, 1836; and within the same period, its debts must be collected, as no new contract can be made with it, as a corporation, for the renewal of loans, or discount of notes or bills, after that time.

The President is of opinion, that this time is long enough to close the concerns of the institution without inconvenience. His language is, "The time allowed the Bank to close its concerns is ample, and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own." Sir, this is all no more than general statement, without fact or argument to support it. We know what the management of the

Bank has been, and we know the present state of its affairs. We can judge, therefore, whether it be probable, that its capital can be all called in, and the circulation of its bills withdrawn, in three years and nine months, by any discretion or prudence in management, without producing distress. The Bank has discounted liberally, in compliance with the wants of the community. The amount due to it, on loans and discounts, in certain large divisions of the country, is great; so great, that I do not perceive how any man can believe, that it can be paid, within the time now limited, without distress. Let us look at known facts. Thirty millions of the capital of the Bank are now out, on loans and discounts in the States on the Mississippi and its waters; ten of these millions on the discount of bills of exchange, foreign and domestic, and twenty millions loaned on promissory notes. Now, Sir, how is it possible, that this vast amount can be collected in so short a period, without suffering, by any management whatever? We are to remember, that, when the collection of this debt begins, at that same time, the existing medium of payment, that is, the circulation of the bills of the Bank, will begin also to be restrained and withdrawn; and thus the means of payment must be limited, just when the necessity of making payment becomes pressing. The whole debt is to be paid, and within the same time the whole circulation withdrawn.

The local Banks, where there are such, will be able to afford little assistance; because they themselves will feel a full share of the pressure. They will not be in a condition to extend their discounts, but, in all probability, obliged to curtail them. Whence, then, are the means to come for paying this debt? and in what medium is payment to be made? If all this may be done with but slight pressure on the community, what course of conduct is to accomplish it? How is it to be done? What other thirty millions are to supply the place of these thirty millions now to be called in? What other circulation, or medium of payment, is to be adopted, in the place of the bills of the Bank? The message, following a singular strain of argument, which had been used in this House, has a loud lamentation upon the suffering of the Western States, on account of their being obliged to pay even interest on this debt. This payment of interest is itself represented as exhausting their means, and ruinous to their prosperity. But if the interest cannot be paid without pressure, can both interest and principal be paid in four years without pressure? The truth is, the interest has been paid, is paid, and may continue to be paid, without any pressure at all; because the money borrowed is profitably employed by those who borrow it, and the rate of interest, which they pay, is at least two per cent. lower than the actual value of money in that

part of the country. But to pay the whole principal in less than four years, losing, at the same time, the existing and accustomed means and facilities of payment created by the Bank itself, and to do this without extreme embarrassment, without absolute distress, is, in my judgment, impossible. I hesitate not to say, that, as this *veto* travels to the West, it will depreciate the value of every man's property from the Atlantic States to the capital of Missouri. Its effects will be felt in the price of lands, the great and leading article of western property, in the price of crops, in the products of labor, in the repression of enterprise, and in embarrassment to every kind of business and occupation. I state this opinion strongly, because I have no doubt of its truth, and am willing its correctness should be judged by the event. Without personal acquaintance with the Western States, I know enough of their condition to be satisfied, that what I have predicted must happen. The people of the West are rich, but their riches consist in their immense quantities of excellent land, in the products of these lands, and in their spirit of enterprise. The actual value of money, or rate of interest, with them, is high, because their pecuniary capital bears little proportion to their landed interest. At an average rate, money is not worth less than eight per cent. per annum, throughout the whole western country; notwithstanding that it has now a loan, or an advance, from the Bank, of thirty millions, at six per cent. To call in this loan, at the rate of eight millions a year, in addition to the interest on the whole, and to take away, at the same time, that circulation which constitutes so great a portion of the medium of payment throughout that whole region, is an operation which, however wisely conducted, cannot but inflict a blow on the community of tremendous force and frightful consequences. The thing cannot be done without distress, bankruptcy, and ruin, to many. If the President had seen any practical manner in which this change might be effected without producing these consequences, he would have rendered infinite service to the community by pointing it out. But he has pointed out nothing, he has suggested nothing; he contents himself with saying, without giving any reason, that, if the pressure be heavy, the fault will be the Bank's. I hope this is not merely an attempt to forestall opinion, and to throw on the Bank the responsibility of those evils which threaten the country, for the sake of removing it from himself.

The responsibility justly lies with him, and there it ought to remain. A great majority of the people is satisfied with the Bank as it is, and desirous that it should be continued. They wished no change. The strength of this public sentiment has carried the bill through Congress, against all the influence of the administration, and all the power of organized party. But the

President has undertaken, on his own responsibility, to arrest the measure, by refusing his assent to the bill. He is answerable for the consequences, therefore, which necessarily follow the change which the expiration of the Bank charter may produce; and if these consequences shall prove disastrous, they can fairly be ascribed to his policy, only, and the policy of his administration.

Although, Sir, I have spoken of the effects of this *veto* in the Western Country, it has not been because I considered that part of the United States exclusively affected by it.

Some of the Atlantic States may feel its consequences, perhaps, as sensibly as those of the West, though not for the same reasons. The concern manifested by Pennsylvania, for the renewal of the charter, shows *her* sense of the importance of the Bank to her own interest, and that of the nation. That great and enterprising State has entered into an extensive system of internal improvements, which necessarily makes heavy demands on her credit and her resources; and by the sound and acceptable currency which the Bank affords, by the stability which it gives to private credit, and by occasional advances, made in anticipation of her revenues, and in aid of her great objects, she has found herself benefited, doubtless, in no inconsiderable degree. Her legislature has instructed her Senators here to advocate the renewal of the charter, at this session. They have obeyed her voice, and yet they have the misfortune to find that, in the judgment of the President, *the measure is unconstitutional, unnecessary, dangerous to liberty, and is, moreover, ill timed.* But, Mr. President, it is not the local interest of the West, nor the particular interest of Pennsylvania, or any other State, which has influenced Congress in passing this bill.

It has been governed by a wise foresight, and by a desire to avoid embarrassment, in the pecuniary concerns of the country, to secure the safe collection and convenient transmission of public moneys, to maintain the circulation of the country, sound and safe as it now happily is, against the possible effects of a wild spirit of speculation. Finding the Bank highly useful, Congress has thought fit to provide for its continuance.

As to the *time* of passing this bill, it would seem to be the last thing to be thought of, as a ground of objection, by the President; since, from the date of his first message to the present time, he has never failed to call our attention to the subject with all possible apparent earnestness. So early as December, 1829, in his message to the two Houses, he declares, that he "cannot, in justice to the parties interested, too soon present the subject to the deliberate consideration of the Legislature, in order to avoid the evils resulting from precipitancy, in a measure involving such important principles and such deep pecuniary interests." Aware of this

early invitation given to Congress, to take up the subject, by the President himself, the writer of the message seems to vary the ground of objection, and instead of complaining that the time of bringing forward this measure was premature, to insist, rather, that, after the report of the committee of the other House, the Bank should have withdrawn its application for the present! But that report offers no just ground, surely, for such withdrawal. The subject was before Congress; it was for Congress to decide upon it, with all the light shed by the report; and the question of postponement, having been made in both Houses, was lost, by clear majorities, in each. Under such circumstances, it would have been somewhat singular, to say the least, if the Bank itself had withdrawn its application. It is indeed known to every body, that the report of the committee, or any thing contained in that report, was very little relied on by the opposers of the renewal. If it has been discovered elsewhere, that that report contained matter important in itself, or which should have led to further inquiry, this may be proof of superior sagacity; for certainly no such thing was discerned by either House of Congress.

But, Sir, do we not now see, that it *was* time, and *high* time, to press this bill, and to send it to the President? Does not the event teach us, that the measure was not brought forward one moment too early? The time had come when the people wished to know the decision of the Administration on the question of the Bank. Why conceal it, or postpone its declaration? Why, as in regard to the Tariff, give out one set of opinions for the North, and another for the South?

An important election is at hand, and the renewal of the Bank charter is a pending object of great interest, and some excitement. Should not the opinions of men high in office, and candidates for reëlection, be known, on this as on other important public questions? Certainly, it is to be hoped that the people of the United States are not yet mere man-worshippers, that they do not choose their rulers without some regard to their political principles, or political opinions. Were they to do this, it would be to subject themselves voluntarily to the evils which the hereditary transmission of power, independent of all personal qualifications, inflicts on other nations. They will judge their public servants by their acts, and continue or withhold their confidence, as they shall think it merited, or as they shall think it forfeited. In every point of view, therefore, the moment had arrived, when it became the duty of Congress to come to a result, in regard to this highly-important measure. The interests of the Government, the interests of the people, the clear and indisputable voice of public opinion, all called upon Congress to act without further loss of time. It has acted, and its act has been negatived by the President; and this

result of the proceedings here, places the question, with all its connections and all its incidents, fully before the people.

Before proceeding to the Constitutional question, there are some other topics, treated in the message, which ought to be noticed. It commences by an inflamed statement of what it calls the "favor" bestowed upon the original Bank, by the Government, or, indeed, as it is phrased, the "monopoly of its favor and support;" and through the whole message all possible changes are rung on the "gratuity," the "exclusive privileges," and "monopoly," of the Bank charter. Now, Sir, the truth is, that the powers conferred on the Bank are such, and no others, as are usually conferred on similar institutions. They constitute no monopoly, although some of them are of necessity and with propriety exclusive privileges. "The original act," says the message, "operated as a gratuity of many millions to the stockholders." What fair foundation is there for this remark? The stockholders received their charter not gratuitously, but for a valuable consideration in money, prescribed by Congress, and actually paid. At some times the stock has been above *par*, at other times below *par*, according to prudence in management, or according to commercial occurrences. But if, by a judicious administration of its affairs, it had kept its stock *always* above *par*, what pretence would there be, nevertheless, for saying that such augmentation of its value was a "*gratuity*" from Government? The message proceeds to declare, that the present act proposes another *donation*, another gratuity, to the same men, of at least seven millions more. It seems to me that this is an extraordinary statement, and an extraordinary style of argument, for such a subject and on such an occasion. In the first place, the facts are all assumed; they are taken for true without evidence. There are no proofs that any benefit to that amount will accrue to the stockholders; nor any experience to justify the expectation of it. It rests on random estimates, or mere conjecture. But suppose the continuance of the charter should prove beneficial to the stockholders; do they not pay for it? They give twice as much for a charter of fifteen years as was given before for one of twenty. And if the proposed *bonus*, or premium, be not, in the President's judgment, large enough, would he, nevertheless, on such a mere matter of opinion as that, negative the whole bill? May not Congress be trusted to decide, even on such a subject as the amount of the money premium to be received by Government for a charter of this kind?

But, Sir, there is a larger and a much more just view of this subject. The bill was not passed for the purpose of benefiting the present stockholders. Their benefit, if any, is incidental and collateral. Nor was it passed on any idea that they had a *right* to a renewed charter; although the message argues against such right, as if it

had been somewhere set up and asserted. No such right has been asserted by any body. Congress passed the bill, not as a bounty or a favor to the present stockholders, nor to comply with any demand of right, on their part; but to promote great public interests, for great public objects. Every Bank must have some stockholders, unless it be such a Bank as the President has recommended, and in regard to which he seems not likely to find much concurrence of other men's opinions; and if the stockholders, whoever they may be, conduct the affairs of the Bank prudently, the expectation is always, of course, that they will make it profitable to themselves, as well as useful to the public. If a Bank charter is not to be granted, because it may be profitable, either in a small or great degree, to the stockholders, no charter can be granted. The objection lies against all Banks.

Sir, the object aimed at by such institutions is to connect the public safety and convenience with private interests. It has been found by experience, that Banks are safest under private management, and that Government Banks are among the most dangerous of all inventions. Now, Sir, the whole drift of the message is to reverse the settled judgment of all the civilized world, and to set up *Government* Banks, independent of private interest or private control. For this purpose the message labors, even beyond the measure of all its other labors, to create jealousies and prejudices, on the ground of the alleged benefit which individuals will derive from the renewal of this charter. Much less effort is made to show, that Government, or the public, will be injured by the bill, than that individuals will profit by it. Following up the impulses of the same spirit, the message goes on gravely to allege, that the act, as passed by Congress, proposes to make a *present* of some millions of dollars to foreigners, because a portion of the stock is holden by foreigners. Sir, how would this sort of argument apply to other cases? The President has shown himself not only willing, but anxious, to pay off the three per cent. stock of the United States *at par*, notwithstanding that it is notorious that foreigners are owners of the greater part of it. Why should he not call that a *donation* to foreigners of many millions?

I will not dwell particularly on this part of the message. Its tone and its arguments are all in the same strain. It speaks of the certain gain of the present stockholders, of the value of the monopoly: it says that all monopolies are granted at the expense of the public; that the many millions which this bill bestows on the stockholders, come out of the earnings of the people; that if Government sells monopolies, it ought to sell them in open market; that it is an erroneous idea, that the present stockholders have a prescriptive right either to the favor or the bounty of Government; that the stock is in the hands of a few, and that the whole Amer-

ican people are excluded from competition in the purchase of the monopoly. To all this I say, again, that much of it is assumption without proof; much of it is an argument against that which nobody has maintained or asserted; and the rest of it would be equally strong against any charter, at any time. These objections existed in their full strength, whatever that was, against the first Bank. They existed, in like manner, against the present Bank at its creation, and will always exist against all Banks. Indeed, as to the bill now before us, all the fault found with that is, that it proposes to continue the Bank substantially as it now exists. "All the objectionable principles of the existing corporation," says the message, "and most of its odious features, are retained without alleviation;" so that the message is aimed against the Bank, as it has existed from the first, and against any and all others resembling it in its general features.

Allow me, now, Sir, to take notice of an argument founded on the practical operation of the Bank. That argument is this. Little of the stock of the Bank is held in the West, the capital being chiefly owned by citizens of the Southern and Eastern States, and by foreigners. But the Western and South-western States owe the Bank a heavy debt, so heavy that the interest amounts to a million six hundred thousand a year. This interest is carried to the Eastern States, or to Europe, annually, and *its payment is a burden on the people of the West, and a drain of their currency, which no country can bear without inconvenience and distress.* The true character and the whole value of this argument are manifest by the mere statement of it. The people of the West are, from their situation, necessarily large borrowers. They need money,—capital,—and they borrow it, because they can derive a benefit from its use, much beyond the interest which they pay. They borrow at six per cent. of the Bank, although the value of money, with them, is at least as high as eight. Nevertheless, although they borrowed at this low rate of interest, and although they use all they borrow thus profitably, yet they cannot pay the interest without "*inconvenience and distress;*" and then, Sir, follows the logical conclusion, that, *although they cannot pay even the interest without inconvenience and distress, yet less than four years is ample time for the Bank to call in the whole, both principal and interest, without causing more than a light pressure.* This is the argument.

Then follows another, which may he thus stated. It is competent to the States to tax the property of their citizens, vested in the stock of this Bank; but the power is denied of taxing the stock of foreigners: therefore the stock will be worth ten or fifteen per cent. more to foreigners than to residents, and will of course inevitably leave the country, and make the American people debtors

to aliens in nearly the whole amount due the Bank, and send across the Atlantic from two to five millions of specie every year, to pay the Bank dividends. Mr. President, arguments like these might be more readily disposed of, were it not that the high and official source from which they proceed, imposes the necessity of treating them with respect. In the first place, it may safely be denied, that the stock of the Bank is any more valuable to foreigners than our own citizens, or an object of greater desire to them, except in so far as capital may be more abundant in the foreign country, and therefore its owners more in want of opportunity of investment. The foreign stockholder enjoys no exemption from taxation. He is, of course, taxed by his own government for his incomes, derived from this as well as other property; and this is a full answer to the whole statement. But it may be added, in the second place, that it is not the practice of civilized states to tax the property of foreigners under such circumstances. Do we tax, or did we ever tax, the foreign holders of our public debt? Does Pennsylvania, New York, or Ohio, tax the foreign holders of stock in the loans contracted by either of these States? Certainly not. Sir, I must confess, I had little expected to see, on such an occasion as the present, a labored and repeated attempt to produce an impression on the public opinion, unfavorable to the Bank, from the circumstance that foreigners are among its stockholders. I have no hesitation in saying that I deem such a strain of remark as the message contains, on this point, coming from the President of the United States, to be injurious to the credit and character of the country abroad; because it manifests a jealousy, a lurking disposition not to respect the property of foreigners, invited hither by our own laws. And, Sir, what is its tendency but to excite this jealousy, and create groundless prejudices?

From the commencement of the Government, it has been thought desirable to invite, rather than to repel, the introduction of foreign capital. Our stocks have all been open to foreign subscriptions; and the State Banks, in like manner, are free to foreign ownership. Whatever State has created a debt, has been willing that foreigners should become purchasers, and desirous of it. How long is it, Sir, since Congress itself passed a law vesting new powers in the President of the United States over the cities in this district, for the very purpose of increasing their credit abroad, the better to enable them to borrow money to pay their subscriptions to the Chesapeake and Ohio Canal? It is easy to say that there is danger to liberty, danger to independence, in a Bank open to foreign stockholders—because it is easy to say any thing. But neither reason nor experience proves any such danger. The foreign stockholder cannot be a director. He has no voice even in the choice of directors. His money is placed entirely in the management of the directors appointed by the President and Senate and by the

American stockholders. So far as there is dependence, or influence, either way, it is to the disadvantage of the foreign stockholder. He has parted with the control over his own property, instead of exercising control over the property or over the actions of others. And, Sir, let it now be added, in further answer to this whole class of objections, that experience has abundantly confuted them all. This Government has existed forty-three years, and has maintained, in full being and operation, a Bank, such as is now proposed to be renewed, for thirty-six years out of the forty-three. We have never for a moment had a Bank not subject to every one of these objections. Always, foreigners might be stockholders; always, foreign stock has been exempt from State taxation, as much as at present; always, the same power and privileges; always, all that which is now called a "monopoly," a "gratuity," a "present," has been possessed by the Bank. And yet there has been found no danger to liberty, no introduction of foreign influence, and no accumulation of irresponsible power in a few hands. I cannot but hope, therefore, that the people of the United States will not now yield up their judgment to those notions, which would reverse all our best experience, and persuade us to discontinue a useful institution, from the influence of vague and unfounded declamation against its danger to the public liberties. Our liberties, indeed, must stand upon very frail foundations, if the Government cannot, without endangering them, avail itself of those common facilities, in the collection of its revenues, and the management of its finances, which all other Governments, in commercial countries, find useful and necessary.

In order to justify its alarm for the security of our independence, the message supposes a case. It supposes that the Bank should pass principally into the hands of the subjects of a foreign country, and that we should be involved in war with that country, and then it exclaims, "What would be our condition?" Why, Sir, it is plain that all the advantages would be on our side. The Bank would still be our institution, subject to our own laws, and all its directors elected by ourselves; and our means would be enhanced, not by the confiscation and plunder, but by the proper use of the foreign capital in our hands. And, Sir, it is singular enough, that this very state of war, from which this argument against a Bank is drawn, is the very thing which, more than all others, convinced the country and the Government of the necessity of a National Bank. So much was the want of such an institution felt, in the late war, that the subject engaged the attention of Congress, constantly, from the declaration of that war down to the time when the existing Bank was actually established; so that, in this respect, as well as in others, the argument of the message is directly opposed to the whole experience of the Gov-

ernment, and to the general and long-settled convictions of the country.

I now proceed, Sir, to a few remarks upon the President's Constitutional objections to the Bank; and I cannot forbear to say, in regard to them, that he appears to me to have assumed very extraordinary grounds of reasoning. He denies that the Constitutionality of the Bank is a settled question. If it be not, will it ever become so, or what disputed question ever can be settled? I have already observed, that for thirty-six years, out of the forty-three, during which the Government has been in being, a BANK has existed, such as is now proposed to be continued.

As early as 1791, after great deliberation, the first Bank charter was passed by Congress, and approved by President Washington. It established an institution, resembling, in all things now objected to, the present Bank. That Bank, like this, could take lands in payment of its debts; that charter, like the present, gave the States no power of taxation; it allowed foreigners to hold stock; it restrained Congress from creating other Banks. It gave also exclusive privileges, and in all particulars it was, according to the doctrine of the message, as objectionable as that now existing. That Bank continued twenty years. In 1816, the present institution was established, and has been, ever since, in full operation. Now, Sir, the question of the power of Congress to create such institutions, has been contested in every manner known to our Constitution and laws. The forms of the Government furnish no new mode, in which to try this question. It has been discussed over and over again, in Congress; it has been argued and solemnly adjudged in the Supreme Court; every President, except the present, has considered it a settled question; many of the State Legislatures have instructed their Senators to vote for the Bank; the tribunals of the States, in every instance, have supported its Constitutionality; and, beyond all doubt and dispute, the general public opinion of the country has at all times given, and does now give, its full sanction and approbation to the exercise of this power, as being a Constitutional power. There has been no opinion, questioning the power, expressed or intimated, at any time, by either House of Congress, by any President, or by any respectable judicial tribunal. Now, Sir, if this practice of near forty years; if these repeated exercises of the power; if this solemn adjudication of the Supreme Court, with the concurrence and approbation of public opinion,—do not settle the question, how is any question ever to be settled, about which any one may choose to raise a doubt? The argument of the message, upon the Congressional precedents, is either a bold and gross fallacy, or else it is an assertion without proofs, and against known facts. The message admits, that, in 1791, Congress decided in favor of a

Bank; but it adds that another Congress, in 1811, decided against it. Now, if it be meant that, in 1811, Congress decided against the Bank *on Constitutional ground*, then the assertion is wholly incorrect, and against notorious fact. It is perfectly well known, that many members, in both Houses, voted against the Bank, in 1811, who had no doubt at all of the Constitutional power of Congress. They were entirely governed by other reasons given at the time. I appeal, Sir, to the honorable member from Maryland (Gen. Smith), who was then a member of the Senate, and voted against the Bank, whether he, and others, who were on the same side, did not give those votes on other well-known grounds, and not at all on the Constitutional ground?

[Gen. Smith here rose, and said, that he voted against the Bank in 1811, but not at all on Constitutional grounds, and had no doubt such was the case with other members.]

We all know, Sir (continued Mr. Webster), the fact to be as the gentleman from Maryland has stated it. Every man who recollects, or who has read, the political occurrences of that day, knows it. Therefore, if the message intends to say that, in 1811, Congress denied the existence of any such *Constitutional power*, the declaration is unwarranted—is altogether at variance with the facts. If, on the other hand, it only intends to say, that Congress decided against the proposition then before it, *on some other grounds*, then it alleges that which is nothing at all to the purpose. The argument, then, either assumes for truth that which is not true, or else the whole statement is immaterial and futile. But whatever value others may attach to this argument, the message thinks so highly of it, that it proceeds to repeat it. "One Congress," it says, "in 1815, decided against a Bank; another, in 1816, decided in its favor. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me." Now, Sir, since it is known to the whole country, one cannot but wonder how it should remain unknown to the President, that Congress *did not* decide against a Bank in 1815. On the contrary, that very Congress passed a bill for erecting a Bank, by very large majorities. In one form, it is true, the bill failed in the House of Representatives; but the vote was reconsidered, the bill recommitted, and finally passed by a vote of *one hundred and twenty to thirty-nine*. There is, therefore, not only no solid ground, but not even any plausible pretence, for the assertion that Congress, in 1815, decided against the Bank. That very Congress passed a bill to create a Bank, and its decision, therefore, is precisely the other way, and is a direct practical precedent in favor of the Constitutional power. What are we to think of a Constitutional argument which deals, in this way, with his-

torical facts? When the message declares, as it does declare, that there is nothing in precedent which ought to weigh in favor of the power, it sets at nought repeated acts of Congress affirming the power, and it also states other acts, which were in fact, and which are well known to have been, directly the reverse of what the message represents them. There is not, Sir, the slightest reason to think that any Senate or any House of Representatives, ever assembled under the Constitution, contained a majority that doubted the Constitutional existence of the power of Congress to establish a Bank. Whenever the question has arisen, and has been decided, it has been always decided one way. The legislative precedents all assert and maintain the power; and these legislative precedents have been the law of the land for almost forty years. They settle the construction of the Constitution, and sanction the exercise of the power in question so far as these ends can ever be accomplished by any legislative precedents whatever.

But the President does not admit the authority of precedent. Sir, I have always found, that those who habitually deny most vehemently the general force of precedent, and assert most strongly the supremacy of private opinion, are yet, of all men, most tenacious of that very authority of precedent, whenever it happens to be in their favor. I beg leave to ask, Sir, upon what ground, except that of *precedent, and precedent alone*, the President's friends have placed his power of *removal from office*. No such power is given by the Constitution, in terms, nor any where intimated, throughout the whole of it; no paragraph or clause of that instrument recognizes such a power. To say the least, it is as questionable, and has been as often questioned, as the power of Congress to create a Bank; and, enlightened by what has passed under our own observation, we now see that it is of all powers the most capable of flagrant abuse. Now, Sir, I ask again, What becomes of this power, if the authority of *precedent* be taken away? It has all along been denied to exist; it is no where found in the Constitution; and its recent exercise, or—to call things by their right names—its recent abuse, has, more than any other single cause, rendered good men either cool in their affections toward the Government of their country, or doubtful of its long continuance. Yet this power has *precedent*, and the President exercises it. We know, Sir, that, without the aid of that *precedent*, his acts could never have received the sanction of this body, even at a time when his voice was somewhat more potential here than it now is, or, as I trust, ever again will be. Does the President, then, reject the authority of all precedent except what it is suitable to his own purposes to use? And does he use, without stint or measure, *all* precedents which may augment his own power, or gratify his own wishes?

But, if the President thinks lightly of the authority of Congress, in construing the Constitution, he thinks still more lightly of the authority of the Supreme Court. He asserts a right of individual judgment, on Constitutional questions, which is totally inconsistent with any proper administration of the Government, or any regular execution of the laws. Social disorder, entire uncertainty in regard to individual rights and individual duties, the cessation of legal authority, confusion, the dissolution of free government!—all these are the inevitable consequences of the principles adopted by the message, whenever they shall be carried to their full extent. Hitherto, it has been thought that the *final decision* of Constitutional questions belonged to the supreme judicial tribunal. The very nature of free government, it has been supposed, enjoins this; and our Constitution, moreover, has been understood so to provide, clearly and expressly. It is true, that each branch of the Legislature has an undoubted right, in the exercise of its functions, to consider the Constitutionality of a law proposed to be passed. This is naturally a part of its duty; and neither branch can be compelled to pass any law, or do any other act, which it deems to be beyond the reach of its Constitutional power. The President has the same right, when a bill is presented for his approval; for he is, doubtless, bound to consider, in all cases, whether such bill be compatible with the Constitution, and whether he can approve it consistently with his oath of office. But when a law has been passed by Congress, and approved by the President, it is now no longer in the power, either of the same President, or his successors, to say whether the law is Constitutional or not. He is not at liberty to disregard it; he is not at liberty to feel or to affect "Constitutional scruples," and to sit in judgment himself on the validity of a statute of the Government, and to nullify it, if he so chooses. After a law has passed through all the requisite forms; after it has received the requisite legislative sanction and the executive approval, the question of its Constitutionality then becomes a judicial question, and a judicial question alone. In the courts that question may be raised, argued, and adjudged; it can be adjudged no where else.

The President is as much bound by the law as any private citizen, and can no more contest its validity than any private citizen. He may refuse to obey the law, and so may a private citizen; but both do it at their own peril, and neither of them can settle the question of its validity. The President may *say* a law is unconstitutional, but he is not the judge. Who is to decide that question? The judiciary, alone, possess this unquestionable and hitherto unquestioned right. The judiciary is the Constitutional tribunal of appeal, for the citizens, against both Congress and the Executive, in regard to the Constitutionality of laws. It has this

jurisdiction expressly conferred upon it, and when it has decided the question, its judgment must, from the very nature of all judgments that are final, and from which there is no appeal, be conclusive. Hitherto, this opinion, and a correspondent practice, have prevailed, in America, with all wise and considerate men. If it were otherwise, there would be no government of laws; but we should all live under the government, the rule, the caprices, of individuals. If we depart from the observance of these salutary principles, the executive power becomes at once purely despotic; for the President, if the principle and the reasoning of the message be sound, may either execute, or not execute, the laws of the land, according to his sovereign pleasure. He may refuse to put into execution one law, pronounced valid by all branches of the Government, and yet execute another, which may have been by Constitutional authority pronounced void. On the argument of the message, the President of the United States holds, under a new pretence, and a new name, a *dispensing power* over the laws, as absolute as was claimed by James the Second of England, a month before he was compelled to fly the kingdom. That which is now claimed for the President, is, in truth, nothing less, and nothing else, than the old *dispensing power* asserted by the kings of England in the worst of times—the very climax, indeed, of all the preposterous pretensions of the Tudor and the Stuart races. According to the doctrines put forth by the President, although Congress may have passed a law, and although the Supreme Court may have pronounced it Constitutional, yet it is, nevertheless, no law at all, if he, in his good pleasure, sees fit to deny it effect; in other words, to repeal and annul it. Sir, no President, and no public man, ever before advanced such doctrines in the face of the nation. There never before was a moment in which any President would have been tolerated in asserting such a claim to despotic power. After Congress has passed the law, and after the Supreme Court has pronounced its judgment, on the very point in controversy, the President has set up his own private judgment against its Constitutional interpretation. It is to be remembered, Sir, that it is the present law, it is the act of 1816, it is the present charter of the Bank, which the President pronounces to be unconstitutional. It is no Bank *to be created*, it is no law proposed to be passed, which he denounces; it is the *law now existing*, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the Supreme Court, which he now declares unconstitutional, and which, of course, so far as it may depend on him, cannot be executed. If these opinions of the President's be maintained, there is an end of all law and all judicial authority. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force.

Such an universal power as is now claimed for him, a power of judging over the laws, and over the decisions of the tribunal, is nothing else than pure despotism. If conceded to him, it makes him, at once, what Louis the Fourteenth proclaimed himself to be, when he said, "I AM THE STATE."

The Supreme Court has unanimously declared and adjudged that the existing Bank *is* created by a Constitutional law of Congress. As has been before observed, this Bank, so far as the present question is concerned, is like that which was established in 1791, by Washington, and sanctioned by the great men of that day. In every form, therefore, in which the question can be raised, it has been raised, and has been settled. Every process and every mode of trial, known to the Constitution and laws, has been exhausted; and always, and without exception, the decision has been in favor of the validity of the law. But all this practice, all this precedent, all this public approbation, all this solemn adjudication directly on the point, is to be disregarded, and rejected, and the Constitutional power flatly denied. And, Sir, if we are startled at this conclusion, our surprise will not be lessened when we examine the argument by which it is maintained.

By the Constitution, Congress is authorized to pass all laws "necessary and proper" for carrying its own legislative powers into effect. Congress has deemed a Bank to be "necessary and proper" for these purposes, and it has therefore established a Bank. But, although the law has been passed, and the Bank established, and the Constitutional validity of its charter solemnly adjudged, yet the President pronounces it *unconstitutional*, because *some* of the powers bestowed on the Bank are, *in his opinion*, not necessary or proper. It would appear, that powers, which, in 1791 and in 1816, in the time of Washington and in the time of Madison, were deemed "necessary and proper," are no longer to be so regarded, *and therefore the Bank is unconstitutional.* It has really come to this, *that the Constitutionality of a Bank is to depend upon the opinion which one particular man may form of the utility or necessity of some of the clauses in its charter!* If that individual chooses to think that a particular power contained in the charter *is not necessary to the proper constitution of the Bank*, then the act is unconstitutional!

Hitherto it has always been supposed, that the question was of a very different nature. It has been thought, that the *policy* of granting a particular charter may be materially dependent on the structure, and organization, and powers of the proposed institution. But its general Constitutionality has never before been understood to turn on such points. This would be making its Constitutionality depend on subordinate questions, on questions of expediency, and questions of detail; upon that which one man may think necessary,

and another may not. If the Constitutional question were made to hinge on matters of this kind, how could it ever be decided? All would depend on conjecture, on the complexional feeling, on the prejudices, on the passions of individuals; on more or less practical skill, or correct judgment, in regard to Banking operations, among those who should be the judges; on the impulse of momentary interests, party objects, or personal purposes. Put the question, in this manner, to a court of seven judges, to decide whether a particular Bank was Constitutional, and it might be doubtful whether they could come to any result, as they might well hold very various opinions on the practical utility of many clauses of the charter.

The question, in that case, would be, not whether the Bank, in its general frame, character and objects, was a proper instrument to carry into effect the powers of the Government; but whether the particular powers, direct or incidental, conferred on a particular Bank, were better calculated than all others to give success to its operations. For if not, then the charter would be unwarranted, according to this sort of reasoning, by the Constitution. This mode of construing the Constitution is certainly a novel discovery. Its merits belong entirely to the President and his advisers. According to this rule of interpretation, if the President should be of opinion, that the capital of the Bank was larger, by a thousand dollars, than it ought to be; or that the time for the continuance of the charter was a year too long; or that it was unnecessary to require it, under penalty, to pay specie; or needless to provide for punishing, as forgery, the counterfeiting of its bills,—either of these reasons would be sufficient to render the charter, in his opinion, unconstitutional, invalid, and nugatory. This is a legitimate conclusion from the argument. Such a view of the subject has certainly never before been taken. This strain of reasoning has hitherto not been heard, within the halls of Congress, nor has any one ventured upon it before the tribunals of justice. The first exhibition, its first appearance, as an argument, is in a message of the President of the United States.

According to that mode of construing the Constitution, which was adopted by Congress in 1791, and approved by Washington, and which has been sanctioned by the judgment of the Supreme Court, and affirmed by the practice of nearly forty years, the question upon the Constitutionality of the Bank involves two inquiries: first, whether a Bank, in its general character, and with regard to the general objects with which Banks are usually connected, be, in itself, a fit means, a suitable instrument, to carry into effect the powers granted to the Government. If it be so, then the second, and the only other question is, whether the powers given in a particular charter are *appropriate* for a Bank. If they are powers

which are *appropriate* for a Bank—powers which Congress may fairly consider to be useful to the Bank or the country—then Congress may confer these powers; because the discretion to be exercised in framing the constitution of the Bank belongs to Congress. One man may think the granted powers not indispensable to the particular Bank; another may suppose them injudicious, or injurious; a third may imagine that other powers, if granted in their stead, would be more beneficial; but all these are matters of expediency, about which men may differ; and the power of deciding upon them belongs to Congress.

I again repeat, Sir, that if, for reasons of this kind, the President sees fit to negative a bill, on the ground of its being *inexpedient* or *impolitic*, he has a right to do so. But remember, Sir, that we are now on the Constitutional question; remember, that the argument of the President is, that, because powers were given to the Bank by the charter of 1816, which *he* thinks not necessary, *that charter is unconstitutional.* Now, Sir, it will hardly be denied, or rather it was not denied or doubted before this message came to us, that, if there was to be a Bank, the powers and duties of that Bank must be prescribed in the law creating it. Nobody but Congress, it has been thought, could grant these powers and privileges, or prescribe their limitations. It is true, indeed, that the message pretty plainly intimates, that the President should have been *first* consulted, and that he should have had the framing of the bill; but we are not yet accustomed to that order of things in enacting laws, nor do I know a parallel to this claim, thus now brought forward, except that, in some peculiar cases in England, highly affecting the royal prerogatives, the assent of the monarch is necessary, before either the house of peers, or his majesty's faithful commons, are permitted to act upon the subject, or to entertain its consideration. But supposing, Sir, that our accustomed forms and our republican principles are still to be followed, and that a law creating a Bank is, like all other laws, to originate with Congress, and that the President has nothing to do with it, till it is presented for his approval,—then it is clear that the powers and duties of a proposed Bank, and all the terms and conditions annexed to it, must, in the first place, be settled by Congress.

This power, if Constitutional at all, is only Constitutional in the hands of Congress. Any where else, its exercise would be plain usurpation. If, then, the authority to decide what powers ought to be granted to a Bank, belong to Congress, and Congress shall have exercised that power, it would seem little better than absurd to say, that its act, nevertheless, would be unconstitutional and invalid, if, in the opinion of a third party, it had misjudged, on a question of expediency, in the arrangement of details. According to such a mode of reasoning, a mistake in the exercise of jurisdiction takes

away the jurisdiction. If Congress decide right, its decision may stand; if it decide wrong, its decision is nugatory; and whether its decision be right or wrong, another is to judge, *although the original power of making the decision must be allowed to be exclusively in Congress.* This is the end to which the argument of the message will conduct its followers.

Sir, in considering the authority of Congress to invest the Bank with the particular powers granted to it, the inquiry is not, and cannot be, *how* appropriate these powers are, but whether they be *at all appropriate;* whether they come within the range of a just and honest discretion; *whether Congress may fairly esteem them to be necessary.* The question is not, Are they the fittest means, the best means, or whether the Bank might not be established without them? But the question is, Are they such as Congress, *bona fide,* may have regarded as *appropriate* to the end? If any other rule were to be adopted, nothing could ever be settled. A law would be constitutional to-day and unconstitutional to-morrow. Its constitutionality would altogether *depend* upon individual opinion, on a matter of mere expediency. Indeed, such a case as that is now actually before us. Mr. Madison deemed the powers given to the Bank, in its present charter, proper and necessary. He held the Bank, therefore, to be Constitutional. But the present President, not acknowledging that the power of deciding on these points rests with Congress, nor with Congress and the then President, but setting up his own opinions as the standard, declares the law, now in being, unconstitutional, because the powers granted by it are, in his estimation, not necessary and proper. I pray to be informed, Sir, whether, upon similar grounds of reasoning, the President's *own* scheme for a Bank, if Congress should do so unlikely a thing as to adopt it, would not become unconstitutional also, if it should so happen that his successor should hold *his* Bank in as light esteem as he holds those established under the auspices of Washington and Madison?

If the reasoning of the message be well founded, it is clear that the charter of the existing Bank is not a law. The Bank has no legal existence; it is not responsible to Government; it has no authority to act; it is incapable of being an agent; the President may treat it as a nullity, to-morrow; withdraw from it all the public deposits, and set afloat all the existing national arrangements of revenue and finance. It is enough to state these monstrous consequences, to show that the doctrine, principles, and pretensions of the message, are entirely inconsistent with a government of laws. If that which Congress has enacted, and the Supreme Court has sanctioned, be not the law of the land, then the reign of law has ceased, and the reign of individual opinion has already begun.

The President, in his commentary on the details of the existing

Bank charter, undertakes to prove that one provision, and another provision, is not necessary and proper; because, as he thinks, the same objects, proposed to be accomplished by them, might have been better attained in another mode; and therefore such provisions are not *necessary*, and so not warranted by the Constitution. Does not this show, that, according to his own mode of reasoning, his *own* scheme would not be Constitutional, since another scheme, which probably most people would think a better one, might be substituted for it? Perhaps, in any Bank charter, there may be no provisions which may be justly regarded as *absolutely indispensable;* since it is probable, that for any of them some others might be substituted. No Bank, therefore, ever could be established; because there never has been, and never could be, any charter, of which every provision should appear to be indispensable, or necessary and proper, in the judgment of every individual. To admit, therefore, that there may be a Constitutional Bank, and yet to contend for such a mode of judging of its provisions and details as the message adopts, involves an absurdity. Any charter which may be framed, may be taken up, and each power conferred by it successively denied, on the ground, that, in regard to each, either no such power is "necessary or proper" in a Bank, or, which is the same thing in effect, some other power might be substituted for it, and supply its place. That can never be *necessary*, in the sense in which the message understands that term, which *may be dispensed with;* and it cannot be said that any power *may not be dispensed with*, if there be some others, which might be substituted for it, and which would accomplish the same end. Therefore, no Bank could ever be Constitutional; because none could be established which should not contain some provisions which might have been omitted, and their place supplied by others.

Mr. President, I have understood the true and well-established doctrine to be, that, after it has been decided that it is competent for Congress to establish a Bank, then it follows, that it may create such a Bank as it judges, in its discretion, to be best, and invest it with all such power as it may deem fit and suitable; with this limitation, always, that all is to be done in the *bona fide* execution of the power to create *a Bank*. If the granted powers are appropriate to the professed end, so that the granting of them cannot be regarded as usurpation of authority by Congress, or an evasion of Constitutional restrictions under *color* of establishing a Bank, then the charter is Constitutional, whether these powers be thought indispensable by others or not, or whether even Congress itself deemed them absolutely indispensable, or only thought them fit and suitable; or whether they are *more or less appropriate* to their end. It is enough that they are appropriate; it is enough that they are

suited to produce the effects designed; and no comparison is to be instituted, in order to try their Constitutionality, between them and others which may be suggested. A case, analogous to the present, is found in the Constitutional power of Congress over the mail. The Constitution says no more than that "Congress shall have power to establish post-offices and post-roads;" and, in the general clause, "all powers necessary and proper" to give effect to this. In the execution of this power, Congress has protected the mail, by providing that robbery of it shall be punished with death. Is this infliction of capital punishment Constitutional? Certainly it is not, unless it be both "proper and necessary." The President may not think it necessary or proper; the law, then, according to the system of reasoning enforced in the message, is of no binding force, and the President may disobey it, and refuse to see it executed.

The truth is, Mr. President, that if the general object, the subject-matter, properly belong to Congress, all its incidents belong to Congress also. If Congress is to establish post-offices and post-roads, it may, for that end, adopt one set of regulations or another; and either would be Constitutional. So the details of one Bank are as Constitutional as those of another, if they are confined, fairly and honestly, to the purpose of organizing the institution, and rendering it useful. One *Bank* is as Constitutional as another *Bank*. If Congress possess the power to make a Bank, it possesses the power to make it efficient, and competent to produce the good expected from it. It may clothe it with all such power and privileges, not otherwise inconsistent with the Constitution, as may be necessary, in its own judgment, to make it what Government deems it should be. It may confer on it such immunities as may induce individuals to become stockholders, and to furnish the capital; and since the extent of these immunities and privileges is matter of discretion, and matter of opinion, Congress only can decide it, because Congress alone can frame or grant the charter. A charter, thus granted to individuals, becomes a contract with them, upon their compliance with its terms. The Bank becomes an agent, bound to perform certain duties, and entitled to certain stipulated rights and privileges, in compensation for the proper discharge of these duties; and all these stipulations, so long as they are appropriate to the object professed, and not repugnant to any other Constitutional injunction, are entirely within the competency of Congress. And yet, Sir, the message of the President toils through all the common-place topics of monopoly, the right of taxation, the suffering of the *poor*, and the arrogance of the rich, with as much painful effort, as if one, or another, or all of them, had something to do with the Constitutional question.

What is called the "monopoly" is made the subject of repeat-

ed rehearsal, in terms of special complaint. By this "monopoly," I suppose, is understood the restriction contained in the charter, that Congress shall not, during the twenty years, create another Bank. Now, Sir, let me ask, Who would think of creating a Bank, inviting stockholders into it, with large investments, imposing upon it heavy duties, as connected with the Government, receiving some millions of dollars as a *bonus*, or premium, and yet retaining the power of granting, the next day, another charter, which would destroy the whole value of the first?—If this be an unconstitutional restraint on Congress, the Constitution must be strangely at variance with the dictates both of good sense and sound morals. Did not the first Bank of the United States contain a similar restriction? And have not the States granted Bank charters, with a condition, that if the charter should be accepted, they would not grant others? States have certainly done so; and, in some instances, where no *bonus*, or premium, was paid at all; but from the mere desire to give effect to the charter, by inducing individuals to accept it and organize the institution. The President declares that this restriction is not *necessary* to the efficiency of the Bank; but that is the very thing which Congress and his predecessor in office were called on to decide, and which they did decide, when the one passed and the other approved the act. And he has now no more authority to pronounce his judgment on that act than any other individual in society. It is not his province to decide on the Constitutionality of statutes which Congress has passed, and his predecessors approved

There is another sentiment, in this part of the message, which we should hardly have expected to find in a paper which is supposed, whoever may have drawn it up, to have passed under the review of professional characters. The message declares that this limitation to create no other Bank is unconstitutional, because, although Congress may use the discretion vested in them, "they may not limit the discretion of their successors." This reason is almost too superficial to require an answer. Every one, at all accustomed to the consideration of such subjects, knows that every Congress can bind its successors to the same extent that it can bind itself: the power of Congress is always the same; the authority of law always the same. It is true, we speak of the twentieth Congress, and the twenty-first Congress; but this is only to denote the period of time, or to mark the successive organizations of the House of Representatives under the successive periodical elections of its members. As a politic body, as the legislative power of the Government, Congress is always continuous, always identical. A particular Congress, as we speak of it,—for instance, the present Congress,—can no farther restrain itself from doing what it may choose to do at the next session, than it can restrain any succeeding Congress from doing what it may choose.

Any Congress may repeal the act or law of its predecessor, if in its nature it be repealable, just as it may repeal its own act; and if a law, or an act, be irrepealable in its nature, it can no more be repealed by a subsequent Congress than by that which passed it. All this is familiar to every body. And Congress, like every other Legislature, often passes acts which, being in the nature of grants, or contracts, are irrepealable ever afterwards. The message, in a strain of argument which it is difficult to treat with ordinary respect, declares that this restriction on the power of Congress, as to the establishment of other Banks, is a palpable attempt to amend the Constitution by an act of legislation. The reason on which this observation purports to be founded, is, that Congress, by the Constitution, is to have exclusive legislation over the District of Columbia; and when the Bank charter declares that Congress will create no new Bank within the district, it annuls this power of exclusive legislation! I must say, that this reasoning hardly rises high enough to entitle it to a passing notice. It would be doing it too much credit to call it plausible. No one needs to be informed that exclusive power of legislation is not unlimited power of legislation; and if it were, how can that legislative power be unlimited that cannot restrain itself; that cannot bind itself by contract? Whether as a government, or as an individual, that being is fettered and restrained, which is not capable of binding itself by ordinary obligation. Every Legislature binds itself, whenever it makes a grant, enters into a contract, bestows an office, or does any other act or thing which is in its nature irrepealable. And this, instead of detracting from its legislative power, is one of the modes of exercising that power. And the legislative power of Congress over the District of Columbia would not be full and complete, if it might not make just such a stipulation as the Bank charter contains.

As to the taxing power of the States, about which the message says so much, the proper answer to all it says, is, that *the States possess no power to tax any instrument of the Government of the United States*. It was no part of their power before the Constitution, and they derive no such power from any of its provisions. It is nowhere given to them. Could a State tax the *coin* of the United States, at the mint? Could a State lay a stamp tax on the process of the courts of the United States, and on custom-house papers? Could it tax the transportation of the mail, or the ships of war, or the ordnance, or the muniments of war, of the United States? The reason that these cannot be taxed, by a State, is, that they are means and instruments of the Government of the United States. The establishment of a Bank, exempt from State taxation, takes away no existing right in a State. It leaves it all it ever possessed. But the complaint is, that the Bank char-

ter does not *confer* the power of taxation. This, certainly, though not new (for the same argument was urged here), appears to me to be a strange mode of asserting and maintaining State rights. The power of taxation is a sovereign power; and the President, and those who think with him, are of opinion, in a given case, that this sovereign power should be conferred on the States, *by an act of Congress*. There is, if I mistake not, Sir, as little compliment to State sovereignty, in this idea, as there is of sound Constitutional doctrine. Sovereign rights, held under the grant of an act of Congress, present a proposition quite new in Constitutional law.

The President himself even admits, that an instrument of the Government of the United States ought not, as such, to be taxed by the States; yet he contends for such a power of taxing property connected with this instrument, and essential to its very being, as places its whole existence in the pleasure of the States. It is not enough that the States may tax all the property of all their own citizens, wherever invested, or however employed. The complaint is, that the power of State taxation does reach so far as to take cognizance over persons *out of the State*, and to tax *them* for a franchise, lawfully exercised under the authority of the United States. Sir, when did the power of the States, or indeed of any Government, go to such an extent as that? Clearly never. The taxing power of all communities is necessarily and justly limited to the property of its own citizens, and to the property of others, having a distinct local existence, as property, within its jurisdiction; it does not extend to rights, and franchises, rightly exercised, under the authority of other governments, nor to persons beyond its jurisdiction. As the *Constitution* has left the taxing power of the States, so the *Bank charter* leaves it. Congress has not undertaken either to take away, or to confer, a taxing power; nor to enlarge, or to restrain it; if it were to do either, I hardly know which of the two would be the least excusable.

I beg leave to repeat, Mr. President, that what I have now been considering are the President's objections, not to the policy or expediency, but to the Constitutionality of the Bank; and not to the Constitutionality of any *new*, or proposed Bank, but of the Bank, as it now is, and as it has long existed. If the President had declined to approve this bill, because he thought the original charter unwisely granted, and the Bank, in point of policy and expediency, objectionable or mischievous, and in that view only had suggested the reasons now urged by him, his argument, however inconclusive, would have been intelligible, and not, in its whole frame and scope, inconsistent with all well-established first principles. His rejection of the bill, in that case, would have been, no doubt, an extraordinary exercise of power; but it would have been, nevertheless, the exercise of a power belonging to his office, and trust-

ed by the Constitution to his discretion. But when he puts forth an array of arguments, such as the message employs, not against the expediency of the Bank, but against its Constitutional existence, he confounds all distinctions, mixes questions of policy and questions of right together, and turns all Constitutional restraints into mere matters of opinion. As far as its power extends, either in its direct effects, or as a precedent, the message not only unsettles every thing which has been settled, under the Constitution, but would show, also, that the Constitution itself is utterly incapable of any fixed construction or definite interpretation, and that there is no possibility of establishing, by its authority, any practical limitations on the powers of the respective branches of the Government.

When the message denies, as it does, the authority of the Supreme Court to decide on Constitutional questions, it effects, so far as the opinion of the President and his authority can effect, a complete change in our Government. It does two things; first, it converts Constitutional limitations of power into mere matters of opinion, and then it strikes the judicial department, as an efficient department, out of our system. But the message by no means stops even at this point. Having denied to Congress the authority of judging what powers may be Constitutionally conferred on a Bank, and having erected the judgment of the President himself into a standard, by which to try the Constitutional character of such powers, and having denounced the authority of the Supreme Court, to decide finally on Constitutional questions, the message proceeds to claim for the President, not the power of approval, but the primary power, the power of *originating laws*. The President informs Congress, that *he* would have sent them such a charter, if it had been properly asked for, as they ought to possess. He very plainly intimates, that, in his opinion, the establishment of all laws, of this nature at least, belongs to the functions of the Executive Government; and that Congress ought to have waited for the manifestation of the Executive will, before it presumed to touch the subject. Such, Mr. President, stripped of their disguises, are the real pretences set up in behalf of the Executive power in this most extraordinary paper.

Mr. President, we have arrived at a new epoch. We are entering on experiments, with the Government and the Constitution of the country, hitherto untried, and of fearful and appalling aspect. This message calls us to the contemplation of a future, which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the Government has sanctioned. It denies first principles; it contradicts truths, heretofore received as indisputable. It denies to the judiciary the interpretation of law, and demands to divide, with Con-

gress, the origination of statutes. It extends the grasp of Executive pretension over every power of the Government. But this is not all. It presents the Chief Magistrate of the Union in the attitude of *arguing away* the powers of that Government over which he has been chosen to preside; and adopting, for this purpose, modes of reasoning which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice which may betray men into a mistaken view of their own interests; and to every passion, which may lead them to disobey the impulses of their understanding. It urges all the specious topics of State rights, and national encroachment, against that which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows, in an unsparing manner, the seeds of jealousy and ill will against that Government of which its author is the official head. It raises a cry, that *liberty is in danger*, at the very moment when it puts forth claims to powers heretofore unknown and unheard of. It affects alarm for the *public freedom*, when nothing endangers that freedom so much as its own unparalleled pretences. This, even, is not all. It manifestly seeks to inflame the poor against the rich; it wantonly attacks whole classes of the people, for the purpose of turning against them the prejudices and the resentments of other classes. It is a state paper which finds no topic too exciting for its use, no passion too inflammable for its address and its solicitation. Such is this message. It remains, now, for the people of the United States to choose between the principles here avowed and their Government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the message shall receive general approbation, the Constitution will have perished even earlier than the moment which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year.

SPEECH

AT THE NATIONAL REPUBLICAN CONVENTION IN WORCESTER, MASS., OCTOBER 12, 1832.

Mr. President: I offer no apology for addressing the meeting. Holding, by the favor of the people of this Commonwealth, an important public situation, I deem it no less than a part of my duty, at this interesting moment, to make my own opinions on the state of public affairs known; and, however I may have performed other duties, this, at least, it is my purpose, on the present occasion, fully to discharge. Not intending to comment, at length, on all the subjects which now attract public attention, nor to discuss any thing, in detail, I wish, nevertheless, before an assembly so large and respectable as the present, and through them to the whole people of the State, to lay open, without reserve, my own sentiments, hopes, and fears, respecting the state, and the fate, of our common country.

The Resolutions which have been read from the Chair express the opinion that the public good requires an effectual change, in the administration of the General Government, both of measures and of men. In this opinion I heartily concur.

Mr. President, there is no citizen of the State, who, in principle and by habitual sentiment, is less disposed than myself to general opposition to Government, or less desirous of frequent changes in its administration. I entertain this feeling strongly, and at all times, towards the Government of the United States; because I have ever regarded the Federal Constitution as a frame of Government so peculiar, and so delicate in its relations to the State Governments, that it might be in danger of overthrow, as well from an indiscriminate and wanton opposition, as from a weak or a wicked administration. But a case may arise, in which the Government is no longer safe in the hands to which it has been intrusted. It may come to be a question, not so much in what particular manner, or according to what particular political opinions, the Government shall be administered, as whether the Constitution itself shall be preserved and maintained. Now, Sir, in my judgment, just such a case, and just such a question, are at this

moment before the American people. Entertaining this sentiment, and thoroughly and entirely convinced of its truth, I wish, as far as my humble power extends, to awaken the people to a more earnest attention to their public concerns. With the people, and the people alone, lies any remedy for the past, and any security for the future. No delegated power is equal to the exigency of the present crisis. No public servants, however able or faithful, have ability to check or to stop the fearful tendency of things. It is a case for sovereign interposition. The rescue, if it come at all, must come from that power which no other on earth can resist. I earnestly wish, therefore, unimportant as my own opinions may be, and entitled, as I know they are, to no considerable regard, yet, since they are honest and sincere, and since they respect nothing less than dangers which appear to me to threaten the Government and Constitution of the country, I fervently wish, that I could now make them known, not only to this meeting, and to this State, but to every man in the Union. I take the hazard of the reputation of an alarmist; I cheerfully submit to the imputation of over-excited apprehension; I discard all fear of the cry of false prophecy, and I declare, that, in my judgment, not only the great interests of the country, but the Constitution itself, is in imminent peril, and that nothing can save, either the one or the other, but that voice which has authority to say to the evils of misrule and misgovernment, Hitherto shall ye come, but no farther.

It is true, Sir, that it is the natural effect of a good Constitution to protect the people. But who shall protect the Constitution? Who shall guard the guardian? What arm but the mighty arm of the people itself, is able, in a popular government, to uphold public institutions? The Constitution itself is but the creature of the public will; and in every crisis which threatens it, it must owe its security to the same power to which it owes its origin.

The appeal, therefore, is to the people; not to party, nor to partisans; not to professed politicians; not to those who have an interest in office and place, greater than their stake in the country; but to the people, and the whole people; to those, who, in regard to political affairs, have no wish but for a good government, and who have power to accomplish their own wishes.

Mr. President: Are the principles and leading measures of the Administration hostile to the great interests of the country?

Are they dangerous to the Constitution, and to the Union of the States?

Is there any prospect of a beneficial change of principles and measures, without a change of men?

Is there reasonable ground to hope for such a change of men?

On these several questions, I desire to state my own convictions, fully, though as briefly as possible.

As government is intended to be a practical institution, if it be wisely formed, the first and most natural test of its administration is the effect produced by it. Let us look, then, to the actual state of our affairs. Is it such as should follow a good administration of a good Constitution?

Sir, we see one State openly threatening to arrest the execution of the revenue laws of the Union, by acts of her own. This proceeding is threatened, not by irresponsible persons, but by those who fill her chief places of power and trust.

In another State, free citizens of the country are imprisoned, and held in prison, in defiance of a judgment of the Supreme Court, pronounced for their deliverance. Immured in a dungeon, marked and patched as subjects of penitentiary punishment, these free citizens pass their days in counting the slow-revolving hours of their miserable captivity, and their nights in feverish and delusive dreams of their own homes and their own families; while the Constitution stands adjudged to be violated, a law of Congress is effectually repealed by the act of a State, and a judgment of deliverance, by the Supreme Court, is set at nought and contemned.

Treaties, importing the most solemn and sacred obligations, are denied to have binding force.

A feeling, that there is great insecurity for property, and the stability of the means of living, extensively prevails.

The whole subject of the tariff, acted on for the moment, is, at the same moment, declared not to be at rest, but liable to be again moved, and with greater effect, just so soon as power for that purpose shall be obtained.

The currency of the country, hitherto safe, sound, and universally satisfactory, is threatened with a violent change; and an embarrassment in pecuniary affairs, equally distressing and unnecessary, hangs over all the trading and active classes of society.

A long-used and long-approved legislative instrument for the collection of revenue, well secured against abuse, and always responsible to Congress and to the laws, is denied further existence; and its place is proposed to be supplied by a new branch of the Executive Department, with a money power, controlled and conducted solely by Executive agency.

The power of the VETO is exercised, not as an extraordinary, but as an ordinary power; as a common mode of defeating acts of Congress not acceptable to the Executive. We hear, one day, that the President needs the advice of no cabinet; that a few secretaries, or clerks, are enough for him. The next, we are informed, that the Supreme Court is but an obstacle to the popular

will, and the whole Judicial Department but an encumbrance to Government. And while, on one side, the judicial power is thus derided and denounced, on the other arises the cry, "Cut down the Senate!" and over the whole, at the same time, prevails the loud avowal, shouted with all the lungs of conscious party strength and party triumph, that the spoils of the enemy belong to the victors. This condition of things, Sir, this general and obvious aspect of affairs, is the result of three years' administration, such as the country has experienced.

But, not resting on this general view of results, let me inquire what the principles and policy of the Administration are, on the leading interests of the country, subordinate to the Constitution itself. And, first, what are its principles, and what its policy, respecting the tariff? Is this great question settled, or unsettled? And is the present Administration for, or against, the tariff?

Sir, the question is wholly unsettled, and the principles of the Administration, according to its most recent avowal of those principles, are adverse to the protecting policy, decidedly hostile to the whole system, root and branch; and this on permanent and alleged Constitutional grounds.

In the first place, nothing has been done to settle the tariff question. The anti-tariff gentlemen who voted for the late law have, none of them, said they would adhere to it. On the contrary, they supported it, because, as far as it went, it was reduction, and that was what they wished; and if they obtained this degree of reduction now, it would be easier to obtain a greater degree hereafter; and they frankly declared that their intent and purpose was to insist on reduction, and to pursue reduction, unremittingly, till all duties on imports should be brought down to one general and equal *per centage*, and that regulated by the mere wants of the revenue; or that, if different rates of duty should remain on different articles, still, that the whole should be laid for revenue, and revenue only; and that they would, to the utmost of their power, push this course, till protection, by duties, as a special object of national policy, should be abandoned, altogether, in the national councils. It is a delusion, therefore, Sir, to imagine that the present tariff stands, safely, on conceded ground. It covers not an inch, that has not been fought for, and must not be again fought for. It stands, while its friends can protect it, and not an hour longer.

In the next place, in that compend of Executive opinions in the VETO Message, the whole principle of the protecting policy is plainly and pointedly denounced.

Having gone through its argument against the Bank charter, as it now exists, and as it has existed, either under the present or a former law, for near forty years, and having added to the well-doubted logic of that argument the still more doubtful aid of a

large array of opprobrious epithets, the message, in unveiled allusion to the protecting policy of the country, holds this language:—

"Most of the difficulties our Government now encounters, and most of the dangers which impend over our Union, have sprung from an abandonment of the legitimate objects of government by our National Legislation, and the adoption of such principles as are imbodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires, we have, in the results of our legislation, arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career, to review our principles, and, if possible, revive that devoted patriotism and spirit of compromise which distinguished the sages of the revolution, and the fathers of our Union. If we cannot at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can at least take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy."

Here, then, we have the whole creed. Our National Legislature has abandoned the legitimate objects of government. It has adopted such principles as are imbodied in the Bank charter; and these principles are elsewhere called objectionable, odious, and unconstitutional. And all this has been done, because rich men have besought the Government to render them richer by acts of Congress. It is time to pause in our career. It is time *to review these principles.* And, if we cannot, at once, MAKE OUR GOVERNMENT WHAT IT OUGHT TO BE, we can, at least, take a stand against new grants of power and privilege.

The plain meaning of all this is, that our protecting laws are founded in an abandonment of the legitimate objects of government; that this is the great source of our difficulties; that it is time to stop in our career, to review the principles of these laws, and, as soon as we can, MAKE OUR GOVERNMENT WHAT IT OUGHT TO BE.

No one can question, Mr. President, that these paragraphs, from the last official publication of the President, show, that, *in his opinion, the tariff, as a system designed for protection, is not only impolitic, but unconstitutional also.* They are quite incapa-

ble of any other version or interpretation. They defy all explanation, and all glosses.

Sir, however we may differ from the principles or the policy of the Administration, it would, nevertheless, somewhat satisfy our pride of country, if we could ascribe to it the character of consistency. It would be grateful if we could contemplate the President of the United States as an identical idea. But even this secondary pleasure is denied to us. In looking to the published records of Executive opinions, sentiments favorable to protection, and sentiments against protection, either come confusedly before us, at the same moment, or else follow each other in rapid succession, like the shadows of a phantasmagoria.

Having read an extract from the veto message, containing the statement of *present opinions*, allow me to read another extract from the annual message of 1830. It will be perceived, that, in that message, both the clear Constitutionality of the tariff laws, and their indispensable policy, are maintained in the fullest and strongest manner. The argument, on the Constitutional point, is stated with more than common ability; and the policy of the laws is affirmed in terms importing the deepest and most settled conviction. We hear in this message nothing of improvident legislation; nothing of the abandonment of the legitimate objects of government; nothing of the necessity of pausing in our career, and reviewing our principles; nothing of the necessity of changing our Government, *till it shall be made what it ought to be*:—But let the message speak for itself:—

"The power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry, is so completely incidental to that power, that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case: this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated to Congress.

"In this conclusion I am confirmed, as well by the opinions

of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the Constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people."

"I am well aware that this is a subject of so much delicacy, on account of the extended interests it involves, as to require that it should be touched with the utmost caution; and that, while an abandonment of the policy in which it originated—a policy coeval with our Government, pursued through successive administrations—is neither to be expected or desired, the people have a right to demand, and have demanded, that it be so modified as to correct abuses and obviate injustice."

Mr. President, no one needs to point out inconsistencies, plain and striking like these. The message of 1830 is a well-written paper; it proceeded, probably, from the Cabinet proper. Whence the veto message of 1832 proceeded, I know not; perhaps from the Cabinet improper.

But, Sir, there is an important record of an earlier date than 1830. If, as the President avers, we have been guilty of improvident legislation, what act of Congress is the most striking instance of that improvidence? Certainly it is the act of 1824. The principle of protection, repeatedly recognized before that time, was, by that act, carried to a new and great extent; so new, and so great, that the act was considered as the foundation of the system. That law it was, which conferred on the distinguished citizen, whose nomination for President this meeting has received with so much enthusiasm, the appellation of "Author of the American System." Accordingly, the act of 1824 has been the particular object of attack, in all the warfare waged against the protective policy. If Congress ever abandoned legitimate objects of legislation, in favor of protection, it did so by that law. If any laws, now on the statute book, or which ever were there, show, by their character, as laws of protection, that our Government is not what it ought to be, and that it ought to be altered, and, in the language of the veto message, *made* what it ought to be, the law of 1824 is the very law, which, more than any, and more than all others, makes good that assertion. And yet, Sir, the President of the United States, then a Senator in Congress, voted for that law! And, though I have not recurred to the journal, my recollection is, that, as to some of its provisions, his support was essential to their success. It will be found, I think, that some of its enactments, and those now most loudly complained of, would have failed, but for his own personal support of them, by his own vote.

After all this, it might have been hoped, that there would be, in 1832, some tolerance of opinion toward those who cannot think, that improvidence, abandonment of all the legitimate objects of legislation, a desire to gratify the rich, who have besought Congress to make them still richer, and the adoption of principles unequal, oppressive, and odious, are the true characteristics to be ascribed to the system of protection.

But, Sir, it is but a small part of my object to show inconsistencies in Executive opinions. My main purpose is different, and tends to more practical ends. It is, to call the attention of the meeting, and of the people, to the principles, avowed in the late message, as being the President's *present opinions*, and proofs of *his present purposes*, and to the consequences, if they shall be maintained by the country. These principles are there expressed in language which needs no commentary. They go, with a *point blank aim*, against the fundamental stone of the Protecting System; that is to say, against the Constitutional power of Congress to establish and maintain that system, in whole or in part. The question, therefore, of the tariff—the question of every tariff—the question between maintaining our agricultural and manufacturing interests where they now are, and breaking up the entire system, and erasing every vestige of it from the statute book, is a question materially to be affected by the pending election.

The President has exercised his NEGATIVE power on the law for continuing the Bank charter. Here, too, he denies both the Constitutionality and the policy of an existing law of Congress. It is true, that the law, or a similar one, has been in operation near forty years. Previous Presidents and previous Congresses have, all along, sanctioned and upheld it. The highest courts, and, indeed, all the courts, have pronounced it Constitutional. A majority of the people, greater than exists on almost any other question, agrees with all the Presidents, all the Congresses, and all the courts of law. Yet, against all this weight of authority, the President puts forth his own individual opinion, and has negatived the bill for continuing the law. Which of the members of his Administration, or whether any one of them, concurs in his sentiments, we know not. Some of them, we know, have recently advanced precisely the opposite opinions, and in the strongest manner recommended to Congress the continuation of the Bank charter. Having himself, urgently and repeatedly, called the attention of Congress to the subject, and his Secretary of the Treasury, who, and all the other Secretaries, as the President's friends say, are but so many pens in his hand, having, at the very session, insisted, in his communication to Congress, both on the Constitutionality and necessity of the Bank, the President, nevertheless, saw fit to negative the bill, passed, as it had been, by

strong majorities in both Houses, and passed, without doubt or question, in compliance with the wishes of a vast majority of the American people.

The question respecting the Constitutional power of Congress to establish a Bank, I shall not here discuss. On that, as well as on the general expediency of renewing the charter, my sentiments have been elsewhere expressed. They are before the public; and the experience of every day confirms me in their truth. All that has been said of the embarrassment and distress, which will be felt from discontinuing the Bank, falls far short of an adequate representation. What was prophecy only two months ago, is already history.

In this part of the country, indeed, we experience this distress and embarrassment only in a mitigated degree. The loans of the Bank are not so highly important, or at least not so absolutely necessary, to the present operations of our commerce; yet we ourselves have a deep interest in the subject, as it is connected with the general currency of the country, and with the cheapness and facility of exchange.

The country, generally speaking, was well satisfied with the Bank. Why not let it alone? No evil had been felt from it in thirty-six years. Why conjure up a troop of fancied mischiefs, as a pretence to put it down? The message struggles to excite prejudices, from the circumstance that foreigners are stockholders; and on this ground it raises a loud cry against a moneyed aristocracy. Can any thing, Sir, be conceived more inconsistent than this? any thing more remote from sound policy and good statesmanship? In the United States, the rate of interest is high, compared with the rates abroad. In Holland and England, the actual value of money is no more than three, or perhaps three and a half, per cent. In our Atlantic States, it is as high as five or six, taking the whole length of the sea-board; in the North-western States, it is eight or ten, and in the South-western ten or twelve. If the introduction, then, of foreign capital be discountenanced and discouraged, the American money-lender may fix his own rate, any where from five to twelve per cent. per annum. On the other hand, if the introduction of foreign capital be countenanced and encouraged, its effect is to keep down the rate of interest, and to bring the value of money in the United States so much the nearer to its value in older and richer countries. Every dollar brought from abroad, and put into the mass of active capital at home, by so much diminishes the rate of interest; and by so much, therefore, benefits all the active and trading classes of society, at the expense of the American capitalist. Yet the President's invention—for such it deserves to be called,—that which is to secure us against the possibility of being oppressed by

a moneyed aristocracy—is to shut the door and bar it safely against all introduction of foreign capital!

Mr. President, what is it that has made England a sort of general banker for the civilized world? Why is it that capital, from all quarters of the globe, accumulates at the centre of her empire, and is thence again distributed? Doubtless, Sir, it is because she invites it, and solicits it. She sees the advantage of this; and no British minister ever yet did a thing so rash, so inconsiderate, so startling, as to exhibit a groundless feeling of dissatisfaction at the introduction or employment of foreign capital.

Sir, of all the classes of society, the larger stockholders of the Bank are among those least likely to suffer from its discontinuance. There are, indeed, on the list of stockholders, many charitable institutions, many widows and orphans, holding small amounts. To these, and other proprietors of a like character, the breaking up of the Bank will, no doubt, be seriously inconvenient. But the capitalist—he who has invested money in the Bank merely for the sake of the security and the interest—has nothing to fear. The refusal to renew the charter will, it is true, diminish the value of the stock; but, then, the same refusal will create a scarcity for money; and this will reduce the price of all other stocks; so that the stockholders in the Bank, receiving, on its dissolution, their portion respectively of its capital, will have opportunities of new and cheap investment.

The truth is, Sir, the great loss, the sore embarrassment, the severe distress, arising from this VETO, will fall on the public, and especially on the more active and industrious portion of the public. It will inevitably create a scarcity of money; in the Western States, it will most materially depress the value of property; it will greatly enhance, every where, the price of domestic exchange; it threatens, every where, fluctuations of the currency; and it drives all our well-settled and safe operations of revenue and finance out of their accustomed channels. And all this is to be suffered on the pretended ground of a Constitutional scruple, which no respect for the opinion of others, no deference to legislative precedent, no decent regard to judicial decision, no homage to public opinion, expressed and maintained for forty years, have power to overcome. An idle apprehension of danger is set up against the experience of almost half a century; loose and flimsy theories are asserted, against facts of general notoriety; and arguments are urged against continuing the charter, so superficial and frivolous, and yet so evidently addressed to those of the community who have never had occasion to be conversant with subjects of this sort,—that an intelligent reader, who wishes to avoid imputing obliquity of motive, is obliged to content himself with ascribing to the origin of the message—whatever and wherever that

origin may have been—no very distinguished share of the endowments of intellect.

Mr. President, as early as December, 1829, the President called the attention of Congress to the subject of the Bank, in the most earnest manner. Look to his annual message of that date. You will find that he then felt constrained, by an irresistible sense of duty to the various interests concerned, not to delay, beyond that moment, his urgent invitation to Congress to take up the subject. He brought forward the same topic again, in all his subsequent annual messages; yet when Congress *did* act upon it, and, on the fourth of July, EIGHTEEN HUNDRED AND THIRTY-TWO, *did* send him a bill, he returned it with his objections; and among these objections, he not only complained *that the Executive was not consulted on the propriety of present action*, but affirmed also, in so many words, *that present action was deemed premature by the Executive Department.*

Let me ask, Mr. President, if it be possible that the same President, the same Chief Magistrate, the same mind, could have composed these two messages? Certainly they much more resemble the production of *two* minds, holding, on this point, precisely opposite opinions. The message of December, 1829, asserts that the time had *then* come for Congress to consider the Bank subject; the message of 1832 declares, that, even then, the action of Congress on the same subject was *premature;* and both these messages were sent to Congress by the President of the United States. Sir, I leave these two messages to be compared and considered by the people.

Mr. President, I will here take notice of but one other suggestion of the President, relative to the time and manner of passing the late bill. A decent respect for the Legislature of the country has hitherto been observed by all who have had occasion to hold official intercourse with it, and especially by all other branches of the Government. The purity of the motives of Congress, in regard to any measure, has never been assailed from any respectable quarter. But in the veto message there is one expression, which, as it seems to me, no American can read without some feeling. There is an expression, evidently not casual or accidental, but inserted with design, and composed with care, which does carry a direct imputation of the possibility of the effect of *private interest* and *private influence* on the deliberations of the two Houses of Congress. I quote the passage, and shall leave it, without a single remark: "Whatever interest or influence, whether public or private, has given birth to this act, it cannot be found either in the wishes or necessities of the Executive Department, by which present action is deemed premature."

Among the great interests of the country, Mr. President, there

is one, which appears to me not to have attracted, from the people of this Commonwealth, a degree of attention altogether equal to its magnitude.

I mean the public lands. If we run our eye over the map of the country, and view the regions, almost boundless, which now constitute the public domain, and over which an active population is rapidly spreading itself, and if we recollect the amount of annual revenue derived from this source, we shall hardly fail to be convinced that few branches of national interest are of more extensive and lasting importance. So large a territory, belonging to the public, forms a subject of national concern of a very delicate nature, especially in popular governments. We know, in the history of other countries, with what views designing men have granted the public lands.

Either in the form of gifts and largesses, or in that of reduction of prices to amounts merely nominal, or as compensation for services, real or imagined, the public domain, in other countries and other times, has not only been diverted from its just use and destination, but has been the occasion, also, of introducing into the state, and into the public councils, no small portion, both of distraction and corruption. Happily, our own system of administering this great interest has hitherto been both safe and successful. Nothing under the Government has been better devised than our land system; and nothing, thus far, more beneficially conducted. But the time seems to have arrived, in the progress of our growth and prosperity, when it has become necessary to reflect, not on any new mode of sale,—for that can hardly be improved,—but on some disposition of the proceeds, such as shall be just and equal to the whole country, and shall ensure also a constant and vigilant attention to this important subject from the people of all the States. It is not to be denied or disguised, that sentiments have recently sprung up, in some places, of a very extraordinary character, respecting the ownership, the just proprietary interest, in these lands. The lands are well known to have been obtained by the United States, either by grants from individual States, or by treaties with foreign powers. In both cases, and in all cases, the grants and cessions were to the United States, for the interest of the whole Union; and the grants from individual States contain express limitations and conditions, binding up the whole property to the common use of all the States forever. Yet, of late years, an idea has been suggested, indeed seriously advanced, *that these lands, of right, belong to the States respectively, in which they happen to lie.* This doctrine, Sir, which, I perceive, strikes this assembly as being somewhat extravagant, is founded on an argument derived, as is supposed, from the nature of State sovereignty. It has been openly espoused, by candidates for office, in some of the new

States, and, indeed, has been announced in the Senate. To the credit of the country, it should be stated, that, up to the present moment, these notions have not spread widely; and they will be dispersed, undoubtedly, by the power of general opinion, so soon as that opinion shall be awakened and expressed. But there is another tendency, more likely, perhaps, to run to injurious excess; and that is, a constant effort to reduce the price of land to sums almost nominal, on the ground of facilitating settlement. The sound policy of the Government has been, uniformly, to keep the prices of the public lands low; so low, that every actual settler might easily obtain a farm; but yet not so low as to tempt individual capitalists to buy up large quantities, to hold for speculation. The object has been to meet, at all times, the whole actual demand, at a cheap rate; and this object has been obtained. And it is obviously of the greatest importance to keep the prices of the public lands from all influences, except the single one of the desire of supplying the whole actual demand, at a cheap rate. The present minimum price is one dollar and a quarter per acre; and millions of acres, much of it of an excellent quality, are now in the market at this rate. Yet, every year, there are propositions to reduce the price, and propositions to graduate the price; that is to say, to provide that all lands, having been offered for sale, for a certain length of time, at the established rate, if not then sold, shall be offered at a less rate; and again reduced, if not sold, to one still less. I have myself thought, that, in some of the oldest districts, some mode might usefully be adopted of disposing of the remainder of the unsold lands, and closing the offices; but a universal system of graduation, lowering prices at short intervals, and by large degrees, could have no other effect than a general depression of price in regard to the whole mass, and would evidently be great mismanagement of the public property. The meeting, Sir, will think it singular enough, that a reduction of prices of the public lands should have been demanded, on the ground *that other impositions for revenue, such as the duty on tea and coffee, have been removed;* thus considering and treating the sums received for lands sold, as a *tax*, a *burden*, an *imposition*, and a great *drain* on the means and the industry of the new States. A man goes from New England to one of the Western States, buys a hundred acres of the best land in the world for one hundred and twenty-five dollars, pays his money, and receives an indisputable title; and immediately, some one stands up in Congress to call this operation the laying of a *tax*, the imposition of a *burden;* and the whole of these purchases and payments, taken together, are represented as an intolerable *drain* on the money and the industry of the new States. I know not, Sir, which deserves to pass for the original, and which for the copy; but this reasoning is not unlike that

which maintains that the trading community of the West will be exhausted and ruined, by the privilege of borrowing money of the Bank of the United States at six per cent. interest; this interest being, as is said in the veto message, a burden upon their industry, and a drain of their currency, which no country can bear without inconvenience and distress!

It was in a forced connection with the reduction of duties of impost, that the subject of the public lands was referred to the Committee of Manufactures in the Senate, at the late session of Congress. This was a legislative movement, calculated to throw on Mr. Clay, who was acting a leading part on the subject of the tariff, and the reduction of duties, a new and delicate responsibility. From this responsibility, however, Mr. Clay did not shrink. He took up the subject, and his report upon it, and his speech delivered afterwards, in defence of the report, are, in my opinion, among the very ablest of the efforts which have distinguished his long public life. I desire to commend their perusal to every citizen of Massachusetts. They will show him the deep interest of all the States, his own among the rest, in the security, and proper management, and disposal, of the public domain. Founded on the report of the committee, Mr. Clay introduced a bill, providing for the distribution, among all the States, according to numbers, of the proceeds of the sales of the public lands for five years; first making a deduction of a considerable per centage in favor of the new States; the sums thus received by the States to be disposed of by them in favor of education, internal improvement, or colonization, as each State might choose for itself. This bill passed the Senate. It was vigorously opposed in the House of Representatives, by the main body of the friends of the Administration, and finally lost by a small majority. By the provisions of the bill, Massachusetts would have received, as her dividend, one hundred and thirty-seven thousand dollars a year.

I am free to confess, Sir, that I had hoped to see some unobjectionable way of disposing of this subject, with the observance of justice towards all the States, by the Government of the United States itself, without a distribution, through the intervention of the State Governments. Such way, however, I have not discovered. I therefore voted for the bill of the last session.

Mr. President, let me remind the meeting of the great extent of this public property.

Only twenty millions of acres have been, as yet, sold, from the commencement of the Government. One hundred and twenty millions, or about that quantity, are now cleared from the Indian title, all surveyed into townships, ranges, and sections, and now in the market for sale. I think, Sir, the whole surface of Mas-

sachusetts embraces about six millions of acres; so that the United States have a body of land, now surveyed, and in market, equal to twenty States, each of the size of Massachusetts. But this is but a very small portion of the whole domain; much the greater part being yet unsurveyed, and much, too, subject to the original Indian title. The income to the revenue from the sales of land, is estimated at three millions of dollars a year. The meeting will thus see, Sir, how important a subject this is, and how highly it becomes the country to guard this vast property against perversion and bad management.

Mr. President, among the bills which failed, at the last session, for want of the President's approval, was one in which this State had a great pecuniary interest. It was the bill for the payment of interest to the States, on the funds advanced by them during the war, the principal of which had been paid, or assumed, by the Government of the United States. Some sessions ago, a bill was introduced into the Senate, by my worthy colleague, and passed into a law, for paying a large part of the principal sum, advanced by Massachusetts, for militia expenses, for defence of the country. This has been paid. The residue of the claim is in the proper course of examination; and such parts of it as ought to be allowed will doubtless be paid hereafter, *vetos* being out of the way, be it always understood. In the late bill, it was proposed that *interest* should be paid to the States, on these advances, in cases where it had not been already paid. It passed both Houses. I recollect no opposition to it in the Senate, nor do I remember to have heard of any considerable objection in the House of Representatives. The argument for it lay in its own obvious justice; a justice too apparent, as it seems to me, to be denied by any one. I left Congress, Sir, a day or two before its adjournment, and, meeting some friends, in this village, on my way home, we exchanged congratulations on this additional act of justice, thus rendered to Massachusetts, as well as other States. But I had hardly reached Framingham, before I learned that our congratulations were premature. The President's signature had been refused, and the bill was not a law! The only reason which I have ever heard for this refusal, is, that Congress had not been in the practice of allowing interest on claims. This is not true as a universal rule; but if it were, might not Congress be trusted with the maintenance of its own rules? Might it not make exceptions to them for good cause? There is no doubt that, in regard to old and long-neglected claims, it has been customary not to allow interest; but the Massachusetts claim was not of this character, nor were the claims of other States. None of them had remained unpaid for want of presentment. The Executive and Legislature of this Commonwealth had never omitted to press

her demand for justice, and her Delegates in Congress have endeavored to discharge their duty by supporting that demand. It has been already decided, in repeated instances, as well in regard to States as to individuals, that when money has been actually *borrowed*, for objects for which the General Government ought to provide, interest paid on such *borrowed money* shall be refunded by the United States. Now, Sir, would it not be a distinction without a difference to allow interest in such a case, and yet refuse it in another, in which the State had not borrowed the money, and paid interest for it, but had raised it by taxation, or, as I believe was the case with Massachusetts, by the sale of valuable stocks, *bearing interest?* Is it not apparent, that, in her case, as clearly as in that of a *borrowing* State, she has actually *lost* the interest? Can any man maintain that, between these two cases, there is any sound distinction, in law, in equity, or in morals? The refusal to sign this bill has deprived Massachusetts and Maine of a very large sum of money, justly due to them. It is now fifteen or sixteen years since the money was advanced; and it was advanced for the most necessary and praiseworthy public purposes. The interest on the sum already refunded, and on that which may reasonably be expected to be hereafter refunded, is not less than *five hundred thousand dollars*. But for the President's refusal, in this unusual mode, to give his approbation to a bill which had passed Congress almost unanimously, these two States would already have been in the receipt of a very considerable portion of this money, and made sure of the residue in due season.

Mr. President, I do not desire to raise mere pecuniary interests to an undue importance, in political matters. I admit there are principles and objects of paramount obligation and importance. I would not oppose the President merely because he has refused to the State what I thought her entitled to, in a matter of money, provided he had made known his reasons, and they had appeared to be such as might fairly influence an intelligent and honest mind. But where a State has so direct and so heavy an interest; where the justice of the case is so plain, that men agree in it who agree in hardly any thing else; where her claim has passed Congress without considerable opposition in either House—a refusal to approve the bill without giving the slightest reason, the taking advantage of the rising of Congress to give it a silent go-by, *is* an act that may well awaken the attention of the people in the States concerned. It *is* an act requiring close examination. It *is* an act which calls loudly for justification by its author. And now, Sir, I will close what I have to say on this particular subject, by stating, that, on the 22d of March, 1832, the President did actually approve and sign a bill, in favor of South Carolina, by

which it was enacted that her claim *for interest upon money actually expended* by her for military stores, during the late war, should be settled and paid; *the money so expended having been drawn by the State from a fund upon which she was receiving interest.* Now, this, Sir, was precisely the case of Massachusetts.

Mr. President, I now approach an inquiry of a far more deep and affecting interest. Are the principles and measures of the Administration dangerous to the Constitution, and to the Union of the States? Sir, I believe them to be so; and I shall state the grounds of that belief.

In the first place, any administration is dangerous to the Constitution, and to the Union of the States, which denies the essential powers of the Constitution, and thus strips it of the capacity to do the good intended by it.

The principles embraced by the Administration, and expressed in the veto message, are evidently hostile to the whole system of protection, by duties of impost, *on Constitutional grounds.* Here, then, is *one* great power struck at once out of the Constitution; and one great end of its adoption defeated. And while this power is thus struck out of the Constitution, it is clear that it exists nowhere else; since the Constitution expressly takes it away from all the States.

The veto message denies the Constitutional power of creating or continuing such an institution as our whole experience has approved, for maintaining a sound, uniform, national currency, and for the safe collection of revenue. Here is *another* power, long used, but now lopped off. And *this* power, too, thus lopped off from the Constitution, is evidently not within the power of any of the individual States. No State can maintain a national currency; no State institution can render to the revenue the services performed by a National institution.

The principles of the Administration are hostile to internal improvements. Here is another power, heretofore exercised in many instances, now denied. The Administration denies the power, except with qualifications, which cast an air of ridicule over the whole subject; being founded on such distinctions as between salt water and fresh water, places above custom-houses and places below; and others equally extraordinary.

Now, Sir, in all these respects, as well as in others, I think the principles of the Administration are at war with the true principles of the Constitution; and that by the zeal and industry which it exerts to support its own principles, it does daily weaken the Constitution, and does put in doubt its long continuance. The inroad of to-day opens the way for an easier inroad to-morrow. When any one essential part is rent away, or, what is nearer the

truth, when many essential parts are rent away, who is there to tell us *how long any other part is to remain?*

Sir, our condition is singularly paradoxical. We have an Administration opposed to the Constitution; we have an Opposition which is the main support of the Government and the laws. We have an Administration which denies, to the very Government which it administers, powers which it has exercised for forty years; it denies the protecting power, the bank power, and the power of internal improvement. The great and leading measures of the National Legislature are all resisted by it. These, strange as it may seem, depend on the *Opposition* for support. We have, in truth, an Opposition without which it would be difficult for the Government to get along at all. I appeal to every member of Congress present (and I am happy to see many here) to say, what would now become of the Government, if all the members of the Opposition were withdrawn from Congress. For myself, I declare my own conviction that its continuance might probably be very short. Take away the Opposition from Congress, and let us see what would probably be done the first session. The TARIFF would be entirely *repealed.* Every enactment having protection by duties as its main object would be struck from the statute book. This would be the first thing done. Every work of internal improvement would be stopped. This would follow, as matter of course. The Bank would go down, and a *treasury money agency* would take its place. The Judiciary act of 1789 would be repealed, so that the Supreme Court should exercise no power of revision over State decisions. And who would resist the doctrines of NULLIFICATION? Look, Sir, to the votes of Congress for the last three years, and you will see that each of these things would, in all human probability, take place at the next session, if the Opposition were to be withdrawn. The Constitution is threatened, therefore, imminently threatened, by the very fact that those are intrusted with its administration who are hostile to its essential powers.

But, Sir, in my opinion, a yet greater danger threatens the Constitution and the Government; and that is from the attempt *to extend the power of the Executive at the expense of all the other branches of the Government, and of the people themselves.* Whatever accustomed power is denied to the Constitution, whatever accustomed power is denied to Congress, or to the Judiciary, *none is denied to the Executive.* Here, there is no retrenchment; here, no apprehension is felt for the liberties of the people; here, it is not thought necessary to erect barriers against corruption.

I begin, Sir, with the subject of removals from office for opinion's sake,—as, I think, one of the most signal instances of the attempt to extend Executive power. This has been a leading

measure, a cardinal point, in the course of the Administration. It has proceeded, from the first, on a settled system of proscription for political opinions; and this system it has carried into operation to the full extent of its ability. The President has not only filled all vacancies with his own friends, generally those most distinguished as personal partisans, but he has turned out political opponents, and thus created vacancies, in order that he might fill them with his own friends. I think the number of removals and appointments is said to be *two thousand*. While the Administration and its friends have been attempting to circumscribe, and to decry, the powers belonging to other branches, it has thus seized into its own hands a patronage most pernicious and corrupting, an authority over men's means of living most tyrannical and odious, and a power to punish free men for political opinions altogether intolerable.

You will remember, Sir, that the Constitution says not one word about the President's power of removal from office. It is a power raised entirely by construction. It is a constructive power, introduced, at first, to meet cases of extreme public necessity. It has now become coëxtensive with the Executive will, calling for no necessity, requiring no exigency, for its exercise; but to be exercised at all times, without control, without question, without responsibility. When the question of the President's power of removal was debated in the first Congress, those who argued for it limited it to *extreme cases*. Cases, they said, might arise, in which it would be *absolutely necessary* to remove an officer, before the Senate could be assembled. An officer might become insane; he might abscond; and from these, and other supposable cases, it was said, the public service might materially suffer, if the President could not remove the incumbent. And it was further said, that there was little or no danger of the power's being abused for party or personal objects. No President, it was thought, would ever commit such an outrage on public opinion. Mr. Madison, who thought the power ought to exist, and to be exercised in cases of high necessity, declared, nevertheless, that if a President should exercise the power, when not called for by any public exigency, and merely for personal objects, *he would deserve to be impeached*. By a very small majority,—I think, in the Senate, by the casting vote of the Vice-President,—Congress decided in favor of the existence of the power, upon the grounds which I have mentioned; granting the power, in a case of clear and absolute necessity, and denying its existence every where else.

Mr. President, we should recollect that this question was discussed, and thus decided, when Washington was in the Executive chair. Men knew, that, in his hands, the power would not be abused; nor did they conceive it possible that any of his

successors could so far depart from his great and bright example, as, by abuse of the power, and by carrying that abuse to its utmost extent, to change the essential character of the Executive from that of an impartial guardian and executor of the laws, into that of the chief dispenser of party rewards. Three or four instances of removal occurred in the first twelve years of the Government. At the commencement of Mr. Jefferson's Administration, he made several others, not without producing much dissatisfaction; so much so, that he thought it expedient to give reasons to the people, in a public paper, for even the limited extent to which he had exercised the power. He placed his justification on particular circumstances and peculiar grounds; which, whether substantial or not, showed, at least, that he did not regard the power of removal as an ordinary power, still less as a mere arbitrary one, to be used as he pleased, for whatever ends he pleased, and without responsibility. As far as I remember, Sir, after the early part of Mr. Jefferson's Administration, hardly an instance occurred for near thirty years. If there were any instances, they were few. But at the commencement of the present Administration, the precedent of these previous cases was seized on, and a *system*, a regular *plan of government*, a well-considered scheme for the maintenance of party power, by the patronage of office, and this patronage to be created by general removal, was adopted, and has been carried into full operation. Indeed, before Gen. Jackson's inauguration, the party put the system into practice. In the last session of Mr. Adams's Administration, the friends of Gen. Jackson constituted a majority in the Senate; and nominations, made by him to fill vacancies, which had occurred in the ordinary way, were postponed, by this majority, beyond the third of March, *for the purpose, openly avowed, of giving the nominations to Gen. Jackson.* A nomination for a Judge of the Supreme Court, and many others of less magnitude, were thus disposed of.

And what did we witness, Sir, when the Administration actually commenced, in the full exercise of its authority? One universal sweep, one undistinguishing blow, levelled against all who were not of the successful party. No worth, public or private, no service, civil or military, was of power to resist the relentless greediness of proscription. Soldiers of the late war, soldiers of the revolutionary war, the very contemporaries of the liberties of the country, all lost their situations. No office was too high, and none too low; for *office* was the spoil,—and *all the spoils*, it is said, belong to the *victors!* If a man, holding an office, necessary for his daily support, had presented himself covered with the scars of wounds received in every battle, from Bunker Hill to Yorktown, these would not have protected him against this reckless rapacity.

Nay, Sir, if WARREN himself had been among the living, and had possessed any office under Government, high or low, he would not have been suffered to hold it a single hour, unless he could show that he had strictly complied with the party statutes, and had put a well-marked party collar round his own neck. Look, Sir, to the case of the late venerable Major MELVILL. He was a spirit of 1776, one of the very first to venture in the cause of liberty. He was of the Tea Party; one of the very first to expose himself to British power. And his whole life was consonant with this, its beginning. Always ardent in the cause of liberty; always a zealous friend to his country; always acting with the party which he supposed cherished the genuine republican spirit most fervently; always estimable and respectable in private life,—he seemed armed against this miserable petty tyranny of party, as far as man could be. But he felt its blow, and he fell. He held an office in the custom-house, and had holden it for a long course of years; and he was deprived of it, as if unworthy to serve the country which he loved, and for whose liberties, in the vigor of his early manhood, he had thrust himself into the very jaws of its enemies. There was no mistake in the matter. His character, his standing, his revolutionary services, were all well known; but they were known to no purpose; they weighed not one feather against party pretensions. It cost no pains to remove him; it cost no compunction to wring his aged heart with this retribution from his country for his services, his zeal, and his fidelity. Sir, you will bear witness, that, when his successor was nominated to the Senate, and the Senate was told who it was that had been removed to make way for that nomination, members were struck with horror. They had not conceived the Administration to be capable of such a thing; and yet, they said, What can *we* do? The man is removed; *we* cannot recall him; we can only act upon the nomination before us? Sir, you and I thought otherwise; and I rejoice that we did think otherwise. We thought it our duty to resist the nomination to a vacancy thus created. We thought it our duty to oppose this proscription when, and where, and as, we Constitutionally could. We besought the Senate to go with us, and to take a stand before the country on this great question. We invoked them to try the deliberate sense of the people; to trust themselves before the tribunal of public opinion; to resist at first, to resist at last, to resist always, the introduction of this unsocial, this mischievous, this dangerous, this belligerent principle, into the practice of the Government.

Mr. President, as far as I know, there is no civilized country on earth, in which, on a change of rulers, there is such an *inquisition for spoil*, as we have witnessed in this free republic. The Inaugural Address of 1829 spoke of a *searching operation* of Gov-

ernment. The most searching operation, Sir, of the present Administration, has been its search for office and place. Whenever, Sir, did any English minister, whig or tory, take such an inquest? When did he ever go down to low-water mark, to make an ousting of tide-waiters? When did he ever take away the daily bread of weighers, and gaugers, and measurers? Or when did he go into the villages, to disturb the little post-offices, the mail contracts, and any thing else, in the remotest degree connected with Government? Sir, a British minister, who should do this, and should afterwards show his head in a British House of Commons, would be received by a universal hiss.

I have little to say of the selections made to fill vacancies thus created. It is true, however,—and it is a natural consequence of the system which has been acted on,—that, within the last three years, more nominations, have been rejected, on the ground of *unfitness*, than in all the preceding forty years of the Government. And these nominations, you know, Sir, could not have been rejected, but by votes of the President's own friends. The cases were too strong to be resisted. Even party attachment could not stand them. In some, not a third of the Senate, in others not ten votes, and in others not a single vote, could be obtained; and this for no particular reason known only to the Senate; but on general grounds of the want of character and qualifications; on grounds known to every body else, as well as to the Senate. All this, Sir, is perfectly natural and consistent. The same party selfishness which drives good men out of office, will push bad men in. Political proscription leads necessarily to the filling of offices with incompetent persons, and to a consequent mal-execution of official duties. In my opinion, Sir, it will effectually change the character of our Government, this acting upon the avowed principle of claiming office by right of conquest, unless the public shall rebuke and restrain it. It elevates party above country; it forgets the common weal in the pursuit of personal emolument; it tends to form, it does form, we see that it has formed, political combinations, held together by no common principles or opinions among its members, either upon the powers of the Government, or the true policy of the country; but held together simply as an association, under the charm of a popular head, seeking to maintain possession of the Government by a *vigorous exercise of its patronage;* and for this purpose agitating, and alarming, and distressing social life by the exercise of a tyrannical party proscription. Sir, if this course of things cannot be checked, good men will grow tired of the exercise of political privileges. They will have nothing to do with popular elections. They will see that such elections are but a mere selfish contest for office; and they will abandon the Government to the scramble of the bold, the daring, and the desperate.

It seems, Mr. President, to be a peculiar and singular characteristic of the present Administration, that it came into power on a cry against abuses, *which did not exist*, and then, as soon as it was in, as if in mockery of the perception and intelligence of the people, *it created those very abuses*, and carried them to a great length. Thus the Chief Magistrate himself, before he came into the chair, in a formal public paper, denounced the practice of appointing members of Congress to office. He said, that if that practice continued, *corruption would become the order of the day;* and, as if to fasten and nail down his own consistency to that point, he declared that it was "*due to himself to practise what he recommended to others.*" Yet, Sir, as soon as he was in power, these fastenings gave way, the nails all flew, and the promised *consistency* remains, a striking proof of the manner in which political assurances are sometimes fulfilled. For, Sir, he has already appointed more members of Congress to office than any of his predecessors, in the longest period of administration. Before his time, there was no reason to complain of these appointments. They had not been numerous under any administration. Under this, they have been numerous, and some of them such as may well justify complaint.

Another striking instance of the exhibition of the same characteristics, may be found in the sentiments of the Inaugural Address, and in the subsequent practice, on the subject of *interfering with the freedom of elections.* The Inaugural Address declares, that it is necessary to reform abuses which have *brought the patronage of the Government into conflict with the freedom of elections.* And what has been the subsequent practice? Look to the newspapers;—look to the published letters of officers of the Government, advising, exhorting, soliciting, friends and partisans to greater exertions in the cause of the party;—see all done, every where, which patronage and power can do, to affect not only elections in the General Government, but also in every State Government—and then say, how well *this* promise of reforming abuses has been kept. At what former period, under what former administration, did public officers of the United States thus interfere in elections? Certainly, Sir, never. In this respect, then, as well as in others, that which was not true, as a charge against previous administrations, would have been true, if it had assumed the form of a prophecy respecting the acts of the present.

But there is another attempt to grasp, and to wield a power over public opinion, of a still more daring character, and far more dangerous effects.

In all popular governments, a FREE PRESS is the most important of all agents and instruments. It not only expresses public opinion, but, to a very great degree, it contributes to form that opinion. It is an engine, for good or for evil, as it may be directed;

but an engine of which nothing can resist the force. The conductors of the press, in popular governments, occupy a place, in the social and political system, of the very highest consequence. They wear the character of public instructers. Their daily labors bear directly on the intelligence, the morals, the taste and the public spirit of the country. Not only are they journalists, recording political occurrences, but they discuss principles, they comment on measures, they canvass characters; they hold a power over the reputation, the feelings, the happiness of individuals. The public ear is always open to their addresses, the public sympathy easily made responsive to their sentiments. It is, indeed, Sir, a distinction of high honor, that theirs is the only profession expressly protected and guarded by Constitutional enactments. Their employment soars so high, in its general consequences, it is so intimately connected with the public happiness, that its security is provided for by the fundamental law. While it acts in a manner worthy of this distinction, the press is a fountain of light, and a source of gladdening warmth. It instructs the public mind, and animates the spirit of patriotism. Its loud voice suppresses every thing which would raise itself against the public liberty; and its blasting rebuke causes incipient despotism to perish in the bud.

But remember, Sir, that these are the attributes of a FREE Press only. And is a press that is purchased or pensioned more free than a press that is fettered? Can the people look for truths to partial sources, whether rendered partial through fear or through favor? Why shall not a manacled press be trusted with the maintenance and defence of popular rights? Because it is supposed to be under the influence of a power which may prove greater than the love of truth. Such a press may screen abuses in Government, or be silent. It may fear to speak. And may it not fear to speak, too, when its conductors, if they speak in any but one way, may lose their means of livelihood? Is dependence on Government for bread no temptation to screen its abuses? Will the press always speak the truth, though the truth, if spoken, may be the means of silencing it for the future? Is the truth in no danger—is the watchman under no temptation—when he can neither proclaim the approach of national evils, nor seem to descry them, without the loss of his place?

Mr. President, an open attempt to secure the aid and friendship of the public press, by bestowing the emoluments of office on its active conductors, seems to me, of every thing we have witnessed, to be the most reprehensible. It degrades both the Government and the press. As far as its natural effect extends, it turns the palladium of liberty into an engine of party. It brings the agency, activity, energy and patronage of Government, all to bear, with united force, on the means of general intelligence, and

on the adoption or rejection of political opinions. It so completely perverts the true object of Government—it so entirely revolutionizes our whole system—that the chief business of those in power is directed rather to the propagation of opinions favorable to themselves, than to the execution of the laws. This propagation of opinions, through the press, becomes the main administrative duty. Some fifty or sixty editors of leading journals have been appointed to office by the present Executive. A stand has been made against this proceeding, in the Senate, with partial success; but, by means of appointments which do not come before the Senate, or other means, the number has been carried to the extent I have mentioned. Certainly, Sir, the editors of the public journals are not to be disfranchised. Certainly, they are fair candidates either for popular elections, or a just participation in office. Certainly, they reckon, in their number, some of the first geniuses, the best scholars, and the most honest and well-principled men, in the country. But the complaint is against the *system*, against the *practice*, against the undisguised attempt to secure the favor of the press, by means addressed to its pecuniary interest, and these means, too, drawn from the public treasury, being no other than the appointed compensations for the performance of official duties. Sir, the press itself should resent this. Its own character for purity and independence is at stake. It should resist a connection rendering it obnoxious to so many imputations. It should point to its honorable denomination, in our Constitutions of Government, and it should maintain the character, there ascribed to it, of a FREE PRESS.

There can, Sir, be no objection to the appointment of an editor to office, if he is the fittest man. There can be no objection to considering the services, which, in that, or in any other capacity, he may have rendered his *country*. He may have done much to maintain her rights against foreign aggression, and her character against insult. He may have honored, as well as defended her; and may, therefore, be justly regarded and selected, in the choice of faithful public agents. But the ground of complaint is, *that the aiding, by the press, of the election of an individual, is rewarded, by that same individual, with the gift of moneyed offices.* Men are turned out of office, and others put in, and receive salaries from the public treasury, on the ground, either openly avowed, or falsely denied, that they had rendered service in the election of the very individual who makes this removal, and makes this appointment. Every man, Sir, must see that this is a vital stab at the purity of the press. It not only assails the independence of the press, by addressing sinister motives, but it furnishes the means of exciting these motives from the public treasury. It extends the Executive power over the press in a most daring manner. It

operates to give a direction to opinion, not favorable to the Government, in the aggregate; not favorable to the Constitution and laws; not favorable to the Legislature; but favorable to the Executive alone. The consequence often is, just what might be looked for, that the portion of the press, thus made fast to the Executive interest, denounces Congress, denounces the Judiciary, complains of the laws, and quarrels with the Constitution. This exercise of the right of appointment, to this end, is an augmentation, and a vast one, of the Executive power, singly and alone. It uses that power strongly against all other branches of the Government, and it uses it strongly, too, for any struggle which it may be called on to make with general public opinion. Mr. President, I will quit this topic. There is much in it, in my judgment, affecting, not only the purity and independence of the press, but also the character and honor, the peace and security, of the Government. I leave it, in all its bearings, to the consideration of the people.

Mr. President, among the novelties introduced into the Government by the present Administration, is the frequent use of the President's negative on acts of Congress. Under former Presidents, this power has been deemed an extraordinary one, to be exercised only in peculiar and marked cases. It was vested in the President, doubtless, as a guard against hasty or inconsiderate legislation, and against any act, inadvertently passed, which might seem to encroach on the just authority of other branches of the Government. I do not recollect that, by all General Jackson's predecessors, this power was exercised more than four or five times. Not having recurred to the journals, I cannot, of course, be sure that I am numerically accurate in this particular; but such is my belief. I recollect no instance in the time of Mr. John Adams, Mr. Jefferson, or Mr. John Quincy Adams. The only cases which occur to me are, two in General Washington's administration, two in Mr. Madison's, and one in Mr. Monroe's. There may be some others; but we all know that it is a power which has been very sparingly and reluctantly used, from the beginning of the Government. The cases, Sir, to which I have now referred, were cases in which the President returned the bill *with objections*. The *silent veto* is, I believe, the exclusive adoption of the present Administration. I think, indeed, that, some years ago, a bill, by inadvertence or accident, failed to receive the President's signature, and so did not become a law. But I am not aware of any instance, before the present Administration, in which the President has, by design, omitted to sign a bill, and yet has not returned it to Congress. But since the present Administration came into power, the veto, in both kinds, has been repeatedly applied. In the case of the Maysville Road, the Montgomery Road, and the Bank, we have had the veto, *with* reasons. In an internal improvement

bill of a former session, in a similar bill at the late session, and in the State interest bill, we have had the silent veto, or refusal *without reasons*.

Now, Sir, it is to be considered, that the President has the power of recommending measures to Congress. Through his friends, he may and does oppose, also, any legislative movement, which he does not approve. If, in addition to this, he may exercise a silent veto, at his pleasure, on all the bills presented to him during the last ten days of the session; if he may refuse assent to them all, without being called upon to assign any reasons whatever,—it will certainly be a great practical augmentation of his power. Any one, who looks at a volume of the statutes, will see that a great portion of all the laws are actually passed within the last ten days of each session. If the President is at liberty to negative any, or all, of these laws, at pleasure, or, rather, to refuse to render the bills laws, by approving them, and still may neglect to return them to Congress for renewed action, he will hold a very important control over the legislation of this country. The day of adjournment is usually fixed some weeks in advance. This being fixed, a little activity and perseverance may easily, in most cases, and perhaps in all, where no alarm has been excited, postpone important pending measures to a period within ten days of the close of the session; and this operation leaves all such measures at the pleasure of the President to sign the bills or not, without being obliged to state his reasons publicly.

A silent veto on the Bank bill would have been the inevitable fate of that bill, if its friends had not refused to fix on any term for adjournment before the President should have had the bill so long as to be required, by Constitutional provisions, to sign it, or to send it back with his reasons for not signing it. The two Houses did not agree, and would not agree, to fix a day for adjournment, until the bill was sent to the President, and then care was taken to fix on such a day as should allow him the whole Constitutional period. This seasonable presentment rescued the bill from the power of the silent negative.

This practical innovation on the mode of administering the Government, so much at variance with its general principles, and so capable of defeating the most useful acts, deserves public consideration. Its tendency is, to disturb the harmony, which ought always to exist between Congress and the Executive, and to turn that which the Constitution intended only as an extraordinary remedy for extraordinary cases, into a common means of making Executive discretion paramount to the discretion of Congress, in the enactment of laws.

Mr. President, the Executive has not only used these unaccustomed means to prevent the passage of laws, but it has also

refused to enforce the execution of laws actually passed. An eminent instance of this is found in the course adopted relative to the Indian intercourse law of 1802. Upon being applied to, in behalf of the MISSIONARIES, to execute that law, for their relief and protection, the President replied, that, *the State of Georgia having extended her laws over the Indian territory, the laws of Congress had thereby been superseded.* This is the substance of his answer, as communicated through the Secretary of War. He holds, then, that the law of the State is *paramount to the law of Congress.* The Supreme Court has adjudged this act of Georgia to be void, as being repugnant to a Constitutional law of the United States. But the President pays no more regard to this decision than to the act of Congress itself. The MISSIONARIES remain in prison, held there by a condemnation, under a law of a State, which the Supreme Judicial Tribunal has pronounced to be null and void. The Supreme Court have decided that the act of Congress is Constitutional; that it is a binding statute; that it has the same force as other laws, and is as much entitled to be obeyed and executed as other laws. The President, on the contrary, declares that the law of Congress has been superseded by the law of the State, and therefore he will not carry its provisions into effect. Now we know, Sir, that the Constitution of the United States declares, that *that Constitution, and all acts of Congress passed in pursuance of it, shall be the supreme law of the land, any thing in any State law to the contrary notwithstanding.* This would seem to be a plain case, then, in which the law should be executed. It has been solemnly decided to be in actual force, by the highest judicial authority; its execution is demanded for the relief of free citizens, now suffering the pains of unjust and unlawful imprisonment; yet the President *refuses to execute it.*

In the case of the Chicago Road, some sessions ago, the President approved the bill, but accompanied his approval by a message, saying *how far he deemed it a proper law, and how far, therefore, it ought to be carried into execution.*

In the case of the Harbor bill of the late session, being applied to, by a member of Congress, for directions for carrying parts of the law into effect, he declined giving them, and *made a distinction between such parts of the law as he should cause to be executed, and such as he should not;* and his right to make this distinction has been openly maintained, by those who habitually defend his measures. Indeed, Sir, these, and other instances of liberties taken with plain statute laws, flow, naturally, from the principles expressly avowed by the President, under his own hand. In that important document, Sir, upon which it seems to be his fate to stand, or to fall, before the American people, the veto message,

he holds the following language:—"*Each public officer, who takes an oath to support the Constitution, swears that he will support it as he understands it, and not as it is understood by others.*" Mr. President, the general adoption of the sentiments expressed in this sentence would dissolve our Government. It would raise every man's private opinions into a standard for his own conduct; and there certainly is, there can be, no government, where every man is to judge, for himself, of his own rights, and his own obligations. Where every one is his own arbiter, force, and not law, is the governing power. He who may judge for himself, and decide for himself, must execute his own decisions; and this is the law of force. I confess, Sir, it strikes me with astonishment, that so wild, so disorganizing a sentiment, should be uttered by a President of the United States. I should think it must have escaped from its author through want of reflection, or from the habit of little reflection, on such subjects, if I could suppose it possible, that, on a question exciting so much public attention, and of so much national importance, any such extraordinary doctrine could find its way, through inadvertence, into a formal and solemn public act. Standing as it does, it affirms a proposition which would effectually repeal all Constitutional and all legal obligations. The Constitution declares, that every public officer, in the State Governments, as well as in the General Government, shall take an oath *to support the Constitution of the United States.* This is all. Would it not have cast an air of ridicule on the whole provision, if the Constitution had gone on to add the words "*as he understands it?*" What could come nearer to a solemn farce, than to bind a man by oath, and still leave him to be his own interpreter of his own obligation? Sir, those who are to execute the laws have no more a license to construe them for themselves than those whose only duty is to obey them. Public officers are bound to support the Constitution; private citizens are bound to obey it; and there is no more indulgence granted to the public officer, to support the Constitution only *as he understands it*, than to a private citizen to obey it *only as he understands it;* and what is true of the Constitution, in this respect, is equally true of any law. Laws are to be executed, and to be obeyed, not as individuals may interpret them, but according to public, authoritative interpretation and adjudication. The sentiment of the message would abrogate the obligation of the whole criminal code. If every man is to judge of the Constitution and the laws for himself; if he is to obey, and support them, *only as he may say he understands them*,—a revolution, I think, would take place in the administration of justice; and discussions about the law of *treason*, *murder*, and *arson*, should be addressed, not to the judicial bench, but to those who might stand charged with

such offences. The object of discussion should be, if we run out this notion to its natural extent, to convince the culprit himself how he ought to understand the law.

Mr. President, how is it possible, that a sentiment so wild, and so dangerous, so encouraging to all who feel a desire to oppose the laws, and to impair the Constitution, should have been uttered by the President of the United States, at this eventful and critical moment? Are we not threatened with dissolution of the Union? Are we not told that the laws of the Government shall be openly and directly resisted? Is not the whole country looking, with the utmost anxiety, to what may be the result of these threatened courses? And, at this very moment, so full of peril to the State, the Chief Magistrate puts forth opinions and sentiments as truly subversive of all government, as absolutely in conflict with the authority of the Constitution, as the wildest theories of Nullification. Mr. President, I have very little regard for the law, or the logic, of Nullification. But there is not an individual in its ranks, capable of putting two ideas together, who, if you will grant him the principles of the veto message, cannot defend all that Nullification has ever threatened. To make this assertion good, Sir, let us see how the case stands. The Legislature of South Carolina, it is said, will nullify the late revenue or tariff law, because, *they say*, it is not warranted by the Constitution of the United States, *as they understand the Constitution*. *They*, as well as the President of the United States, have sworn to support the Constitution. Both he and they have taken the same oath, in the same words.

Now, Sir, since he claims the right to interpret the Constitution as he pleases, how can he deny the same right to *them*? Is his oath less stringent than theirs? Has he a prerogative of dispensation which they do not possess? How can he answer them, when they tell him, that the revenue laws are unconstitutional, *as they understand the Constitution*, and that, therefore, they will nullify them? Will he reply to them, according to the doctrines of his annual message in 1830, that *precedent* has settled the question, if it was ever doubtful? They will answer him in his own words, in the veto message, that, in such a case, *precedent* is not binding. Will he say to them, that the revenue law is a law of Congress, which must be executed, until it shall be declared void? They will answer him, that, in other cases, he has himself refused to execute laws of Congress which had not been declared void, but which had been, on the contrary, declared valid. Will he urge the force of judicial decisions? They will answer, that he himself does not admit the binding obligation of such decisions. Sir, the President of the United States is of opinion, that an individual, called on to execute a law, may himself judge of its Con-

stitutional validity. Has Nullification any thing more revolutionary than that? The President is of opinion that judicial interpretations of the Constitution and the laws do not bind the consciences, and ought not to bind the conduct, of men. Has Nullification any thing more disorganizing than that? The President is of opinion, that every officer is bound to support the Constitution only according to what ought to be, in his private opinion, its construction. Has Nullification, in its widest flight, ever reached to an extravagance like that? No, Sir, never. The doctrine of Nullification, in my judgment a most false, dangerous, and revolutionary doctrine, is this; that *the State*, or *a State*, may declare the extent of the obligations which its citizens are under to the United States; in other words, that a State, by State laws, and State judicatures, may conclusively construe the Constitution for its own citizens. But that every individual may construe it for himself, is a refinement on the theory of resistance to Constitutional power, a sublimation of the right of being disloyal to the Union, a free charter for the elevation of private opinion above the authority of the fundamental law of the State, such as was never presented to the public view, and the public astonishment, even by Nullification itself. Its first appearance is in the veto message. Melancholy, lamentable, indeed, Sir, is our condition, when, at a moment of serious danger and wide-spread alarm, such sentiments are found to proceed from the Chief Magistrate of the Government. Sir, I cannot feel that the Constitution is safe in such hands. I cannot feel that the present Administration is its fit and proper guardian.

But let me ask, Sir, what evidence there is, that the President is himself opposed to the doctrines of Nullification.—I do not say to the political party which now pushes these doctrines, but to the doctrines themselves. Has he any where rebuked them? Has he any where discouraged them? Has his influence been exerted to inspire respect for the Constitution, and to produce obedience to the laws? Has he followed the bright example of his predecessors? Has he held fast by the institutions of the country? Has he summoned the good and the wise around him? Has he admonished the country that the Union is in danger, and called on all the patriotic to come out in its support? Alas! Sir, we have seen nothing, nothing of all this.

Mr. President, I shall not discuss the doctrine of Nullification. I am sure it can have no friends here. Gloss it and disguise it as we may, it is a pretence incompatible with the authority of the Constitution. If direct separation be not its only mode of operation, separation is, nevertheless, its direct consequence. That a State may nullify a law of the Union, and still remain *in* the Union; that she may have Senators and Representatives in the Government, and yet be at liberty to disobey and resist that Government; that she may

partake in the common councils, and yet not be bound by their results; that she may control a law of Congress, so that it shall be one thing with her, while it is another thing with the rest of the States;—all these propositions seem to be so absolutely at war with common sense and reason, that I do not understand how any intelligent person can yield the slightest assent to them. Nullification, it is in vain to attempt to conceal it, is dissolution; it is dismemberment; it is the breaking up of the Union. If it shall practically succeed in any one State, from that moment there are twenty-four States in the Union no longer. Now, Sir, I think it exceedingly probable that the President may come to an open rupture with that portion of his original party which now constitutes what is called the Nullification party. I think it likely he will oppose the proceedings of that party, if they shall adopt measures coming directly in conflict with the laws of the United States. But how will he oppose? *What will be his course of remedy?* Sir, I wish to call the attention of the meeting, and of the people, earnestly to this question,—*How will the President attempt to put down Nullification, if he shall attempt it at all?*

Sir, for one, I protest in advance against such remedies as I have heard hinted. The Administration itself keeps a profound silence, but its friends have spoken for it. *We are told, Sir, that the President will immediately employ the military force, and at once blockade Charleston!* A military remedy, a remedy by direct belligerent operation, has been thus suggested, and nothing else has been suggested, as the intended means of preserving the Union. Sir, there is no little reason to think, that this suggestion is true. We cannot be altogether unmindful of the past; and therefore we cannot be altogether unapprehensive for the future. For one, Sir, I raise my voice beforehand against the unauthorized employment of military power, and against superseding the authority of the laws, by an armed force, under pretence of putting down Nullification. The President has no authority to blockade Charleston; the President has no authority to employ military force, till he shall be duly required so to do, by law, and by the civil authorities. His duty is to cause the laws to be executed. His duty is to support the civil authority. His duty is, if the laws be resisted, to employ the military force of the country, if necessary, for their support and execution; but to do all this in compliance only with law, and with decisions of the tribunals. If, by any ingenious devices, those who resist the laws escape from the reach of judicial authority, as it is now provided to be exercised, it is entirely competent to Congress to make such new provisions as the exigency of the case may demand. These provisions undoubtedly would be made. With a Constitutional and efficient head of the Government, with an Administration really and truly in favor of

the Constitution, the country can grapple with Nullification. By the force of reason; by the progress of enlightened opinion; by the natural, genuine patriotism of the country, and by the steady and well-sustained operations of law,—the progress of disorganization may be successfully checked, and the Union maintained. Let it be remembered, that, where Nullification is most powerful, it is not unopposed. Let it be remembered, that they who would break up the Union by force, have to march toward that object through thick ranks of as brave and good men as the country can show; men, strong in character, strong in intelligence, strong in the purity of their own motives; and ready, always ready, to sacrifice their fortunes and their lives to the preservation of the Constitutional Union of the States. If we can relieve the country from an Administration which denies to the Constitution those powers which are the breath of its life; if we can place the Government in the hands of its friends; if we can secure it against the dangers of irregular and unlawful military force; if it can be under the lead of an Administration whose moderation, firmness and wisdom shall inspire confidence and command respect,—we may yet surmount the dangers, numerous and formidable as they are, which surround us.

And, Sir, I see little prospect of overcoming these dangers, without a change of men. After all that has passed, the reëlection of the present Executive will give the national sanction to sentiments, and to measures, which will effectually change the Government; which, in short, must destroy the Government. If the President be reëlected, with concurrent and coöperating majorities in both Houses of Congress, I do not see, that, in four years more, all the power which is suffered to remain in the Government will not be holden by the Executive hand. Nullification will proceed, or will be put down by a power as unconstitutional as itself. The revenues will be managed by a Treasury Bank. The use of the veto will be considered as sanctioned by the public voice. The Senate, if not "cut down," will be bound down; and the President, commanding the army and the navy, and holding all places of trust to be party property, what will then be left, Sir, for Constitutional reliance?

Sir, we have been accustomed to venerate the Judiciary, and to repose hopes of safety on that branch of the Government. But let us not deceive ourselves. The Judicial power cannot stand, for a long time, against the Executive power. The Judges, it is true, hold their places by an independent tenure; but they are mortal. That which is the common lot of humanity must make it necessary to renew the benches of justice. And how will they be filled? Doubtless, Sir, they will be filled by incumbents, agreeing with the President in his Constitutional opinions. If the Court

is felt as an obstacle, doubtless the first opportunity, and every opportunity, will be embraced, to give it less and less the character of an obstacle. Sir, without pursuing these suggestions, I only say that the country must prepare itself for any change in the Judicial Department, such as it shall deliberately sanction in other departments.

But, Sir, what is the prospect of change? Is there any hope, that the national sentiment will recover its accustomed tone, and restore to the Government a just and efficient administration?

Sir, if there be something of doubt on this point, there is also something, perhaps much, of hope. The popularity of the present Chief Magistrate, springing from causes not connected with his administration of the Government, has been great. Public gratitude for military service has remained fast to him, in defiance of many things, in his civil administration, calculated to weaken its hold. At length, there are indications, not to be denied, of new sentiments and new impressions. At length, a conviction of danger to important interests, and to the security of the Government, has made its lodgment in the public mind. At length, public sentiment begins to have its free course, and to produce its just effects. I fully believe, Sir, that a great majority of the nation desire a change in the Administration; and that it will be difficult for party organization, or party denunciation, to suppress the effective utterance of that general wish. There are unhappy differences, it is true, about the fit person to be successor to the present incumbent, in the Chief Magistracy; and it is possible, that this disunion may, in the end, defeat the will of the majority. But, so far as we agree together, let us act together. Wherever our sentiments concur, let our hands coöperate. If we cannot, at present, agree who should be President, we are at least agreed who ought not to be. I fully believe, Sir, that gratifying intelligence is already on the wing. While we are yet deliberating in Massachusetts, Pennsylvania is voting. This week, she elects her members to the next Congress. I doubt not the result of that election will show an important change in public sentiment in that State; nor can I doubt that the great States adjoining her, holding similar Constitutional principles, and having similar interests, will feel the impulse of the same causes which affect her. The people of the United States, by a vast and countless majority, are attached to the Constitution. If they shall be convinced that it is in danger, they will come to its rescue, and will save it. It cannot be destroyed, even now, if THEY will undertake its guardianship and protection.

But suppose, Sir, there was less hope than there is, would that consideration weaken the force of our obligations? Are we at a post which we are at liberty to desert when it becomes difficult to hold it? May we fly at the approach of danger? Does our

fidelity to the Constitution require no more of us than to enjoy its blessings, to bask in the prosperity which it has shed around us and our fathers? and are we at liberty to abandon it in the hour of its peril, or to make for it but a faint and heartless struggle, for the want of encouragement, and the want of hope? Sir, if no State come to our succor—if every where else the contest should be given up—here let it be protracted to the last moment. Here, where the first blood of the revolution was shed, let the last effort for that which is the greatest blessing obtained by the revolution—a free and united government—be made. Sir, in our endeavors to maintain our existing forms of government, we are acting not for ourselves alone, but for the great cause of Constitutional liberty all over the globe. We are trustees, holding a sacred treasure, in which all the lovers of freedom have a stake. Not only in revolutionized France, where there are no longer *subjects*, where the monarch can no longer say, *he is the State;* not only in reformed England, where our principles, our institutions, our practice of free government, are now daily quoted and commended; but in the depths of Germany, also, and among the desolated fields and the still smoking ashes of Poland, prayers are uttered for the preservation of our Union and happiness. We are surrounded, Sir, by a cloud of witnesses. The gaze of the sons of Liberty, every where, is upon us, anxiously, intently, upon us. They may see us fall in the struggle for our Constitution and Government, but Heaven forbid that they should see us recreant.

At least, Sir, let the star of Massachusetts be the last which shall be seen to fall from heaven, and to plunge into the utter darkness of disunion. Let her shrink back, let her hold others back, if she can; at any rate, let her keep herself back, from this gulf, full, at once, of fire and of blackness; yes, Sir, as far as human foresight can scan, or human imagination fathom, full of the fire, and the blood, of civil war, and of the thick darkness of general political disgrace, ignominy, and ruin. Though the worst may happen that can happen, and though she may not be able to prevent the catastrophe, yet let her maintain her own integrity, her own high honor, her own unwavering fidelity, so that, with respect and decency, though with a broken and a bleeding heart, she may pay the last tribute to a glorious, departed, free Constitution.

SPEECH

IN THE SENATE OF THE UNITED STATES, IN REPLY TO MR. CALHOUN'S SPEECH, ON THE BILL "FURTHER TO PROVIDE FOR THE COLLECTION OF DUTIES ON IMPORTS," FEBRUARY 16, 1833.

On the 21st of January, 1833, Mr. WILKINS, Chairman of the Judiciary Committee, introduced the bill further to provide for the collection of duties.

On the 22d day of the same month, Mr. CALHOUN submitted the following resolutions:—

"*Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification; and that the union, of which the said compact is the bond, is a union *between the States* ratifying the same.

"*Resolved*, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a General Government, to carry into effect the objects for which they were formed, delegated to that Government, for that purpose, certain definite powers, to be exercised jointly, reserving, at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate Government; and that whenever the General Government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same Government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

"*Resolved*, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and, as such, are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the General Government; that they have parted with the right of punishing treason through their respective State Governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and of consequence of those delegated;—are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the General Government, or any of its departments, claiming

authority from such erroneous assumptions, must of necessity be unconstitutional—must tend, directly and inevitably, to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated Government, without Constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

On Saturday, the 16th of February, Mr. CALHOUN spoke in opposition to the bill.

Mr. WEBSTER followed him.

MR. PRESIDENT: The gentleman from South Carolina has admonished us to be mindful of the opinions of those who shall come after us. We must take our chance, Sir, as to the light in which posterity will regard us. I do not decline its judgment, nor withhold myself from its scrutiny. Feeling that I am performing my public duty with singleness of heart, and to the best of my ability, I fearlessly trust myself to the country, now and hereafter, and leave both my motives and my character to its decision.

The gentleman has terminated his speech in a tone of threat and defiance towards this bill, even should it become a law of the land, altogether unusual in the halls of Congress. But I shall not suffer myself to be excited into warmth by his denunciation of the measure which I support. Among the feelings which at this moment fill my breast, not the least is that of regret at the position in which the gentleman has placed himself. Sir, he does himself no justice. The cause which he has espoused finds no basis in the Constitution, no succor from public sympathy, no cheering from a patriotic community. He has no foothold on which to stand, while he might display the powers of his acknowledged talents. Every thing beneath his feet is hollow and treacherous. He is like a strong man struggling in a morass: every effort to extricate himself only sinks him deeper and deeper. And I fear the resemblance may be carried still farther; I fear that no friend can safely come to his relief, that no one can approach near enough to hold out a helping hand, without danger of going down himself, also, into the bottomless depths of this Serbonian bog.

The honorable gentleman has declared that on the decision of the question now in debate, may depend the cause of liberty itself. I am of the same opinion; but then, Sir, the liberty which I think is staked on the contest, is not political liberty, in any general and undefined character, but our own, well-understood, and long-enjoyed *American* liberty.

Sir, I love Liberty no less ardently than the gentleman, in whatever form she may have appeared in the progress of human history. As exhibited in the master states of antiquity, as breaking out again from amidst the darkness of the middle ages,

and beaming on the formation of new communities in modern Europe, she has, always and every where, charms for me. Yet, Sir, it is our own liberty, guarded by constitutions and secured by union; it is that liberty which is our paternal inheritance, it is our established, dear-bought, peculiar American liberty, to which I am chiefly devoted, and the cause of which I now mean, to the utmost of my power, to maintain and defend.

Mr. President, if I considered the Constitutional question now before us as doubtful as it is important, and if I supposed that its decision, either in the Senate or by the country, was likely to be in any degree influenced by the manner in which I might now discuss it, this would be to me a moment of deep solicitude. Such a moment has once existed. There has been a time, when, rising in this place, on the same question, I felt, I must confess, that something for good or evil to the Constitution of the country might depend on an effort of mine. But circumstances are changed. Since that day, Sir, the public opinion has become awakened to this great question: it has grasped it; it has reasoned upon it, as becomes an intelligent and patriotic community, and has settled it, or now seems in the progress of settling it, by an authority which none can disobey—the authority of the people themselves.

I shall not, Mr. President, follow the gentleman, step by step, through the course of his speech. Much of what he has said he has deemed necessary to the just explanation and defence. of his own political character and conduct. On this I shall offer no comment. Much, too, has consisted of philosophical remark upon the general nature of political liberty, and the history of free institutions; and of other topics, so general, in their nature, as to possess, in my opinion, only a remote bearing on the immediate subject of this debate.

But the gentleman's speech, made some days ago, upon introducing his resolutions, those resolutions themselves, and parts of the speech now just concluded, may probably be justly regarded as containing the whole South Carolina doctrine. That doctrine it is my purpose now to examine, and to compare it with the Constitution of the United States. I shall not consent, Sir, to make any new constitution, or to establish another form of government. I will not undertake to say what a constitution for these United States ought to be. That question the people have decided for themselves; and I shall take the instrument as they have established it, and shall endeavor to maintain it, in its plain sense and meaning, against opinions and notions which, in my judgment, threaten its subversion.

The resolutions introduced by the gentleman were apparently drawn up with care, and brought forward upon deliberation. I

shall not be in danger, therefore, of misunderstanding him, or those who agree with him, if I proceed at once to these resolutions, and consider them as an authentic statement of those opinions, upon the great Constitutional question, by which the recent proceedings in South Carolina are attempted to be justified.

These resolutions are three in number.

The third seems intended to enumerate, and to deny, the several opinions expressed in the President's proclamation, respecting the nature and powers of this Government. Of this third resolution, I purpose, at present, to take no particular notice.

The two first resolutions of the honorable member affirm these propositions, viz.

1. That the political system, under which we live, and under which Congress is now assembled, is a *compact*, to which the people of the several States, as separate and sovereign communities, are *the parties*.

2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress; and, in case of such violation, to choose, each for itself, its own mode and measure of redress.

It is true, Sir, that the honorable member calls this a "*constitutional*" compact; but still he affirms it to be a compact *between sovereign States*. What precise meaning, then, does he attach to the term *constitutional?* When applied to compacts between sovereign States, the term *constitutional* affixes to that word *compact* no definite idea. Were we to hear of a *constitutional* league or treaty between England and France, or a *constitutional* convention between Austria and Russia, we should not understand what could be intended by such a league, such a treaty, or such a convention. In these connections, the word is void of all meaning; and yet, Sir, it is easy, quite easy, to see why the honorable gentleman has used it in these resolutions. He cannot open the book, and look upon our written frame of government, without seeing that it is called a *constitution*. This may well be appalling to him. It threatens his whole doctrine of *compact*, and its darling derivatives, *nullification* and *secession*, with instant confutation. Because, if he admits our instrument of government to be a *constitution*, then, for that very reason, it is not a compact between sovereigns; a constitution of government, and a compact between sovereign powers, being things essentially unlike in their very natures, and incapable of ever being the same. Yet the word *constitution* is on the very front of the instrument. He cannot overlook it. He seeks, therefore, to compromise the matter, and to sink all the substantial sense of the word, while he retains a resemblance of its sound. He introduces a new word

of his own, viz. *compact*, as importing the principal idea, and designed to play the principal part, and degrades *constitution* into an insignificant, idle epithet, attached to *compact*. The whole then stands as a "*constitutional compact!*" And in this way he hopes to pass off a plausible gloss, as satisfying the words of the instrument; but he will find himself disappointed. Sir, I must say to the honorable gentleman, that, in our American political grammar, CONSTITUTION is a noun substantive; it imports a distinct and clear idea, of itself; and it is not to lose its importance and dignity, it is not to be turned into a poor, ambiguous, senseless, unmeaning adjective, for the purpose of accommodating any new set of political notions. Sir, we reject his new rules of syntax altogether. We will not give up our forms of political speech to the grammarians of the school of nullification. By the Constitution, we mean not a "*constitutional compact*," but, simply and directly, *the Constitution*, the fundamental law; and if there be one word in the language, which the people of the United States understand, this is that word. We know no more of a *constitutional compact* between sovereign powers, than we know of a *constitutional* indenture of copartnership, a *constitutional* deed of conveyance, or a *constitutional* bill of exchange. But we know what the *Constitution* is; we know what the plainly-written, fundamental law is; we know what the bond of our Union and the security of our liberties is; and we mean to maintain and to defend it, in its plain sense and unsophisticated meaning.

The sense of the gentleman's proposition, therefore, is not at all affected, one way or the other, by the use of this word. That proposition still is, that our system of government is but a *compact* between the people of separate and sovereign States.

Was it Mirabeau, Mr. President, or what other master of the human passions, who has told us that words are things? They are indeed things, and things of mighty influence, not only in addresses to the passions and high-wrought feelings of mankind, but in the discussion of legal and political questions also; because a just conclusion is often avoided, or a false one reached, by the adroit substitution of one phrase, or one word, for another. Of this we have, I think, another example in the resolutions before us.

The first resolution declares that the people of the several States "*acceded*" to the Constitution, or to the constitutional compact, as it is called. This word "*accede*," not found either in the Constitution itself, or in the ratification of it by any one of the States, has been chosen for use here, doubtless, not without a well-considered purpose.

The natural converse of *accession* is *secession;* and, therefore, when it is stated that the people of the States *acceded* to the

Union, it may be more plausibly argued that they may *secede* from it. If, in adopting the Constitution, nothing was done but acceding to a *compact*, nothing would seem necessary, in order to break it up, but to secede from the same compact. But the term is wholly out of place. *Accession*, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it; and *secession* implies departing from such league or confederacy. The people of the United States have used no such form of expression in establishing the present Government. They do not say that they *accede* to a league, but they declare that they *ordain* and *establish* a Constitution. Such are the very words of the instrument itself; and in all the States, without an exception, the language used by their conventions was, that they "*ratified the Constitution;*" some of them employing the additional words "assented to" and "adopted," but all of them "ratifying." There is more importance than may, at first sight, appear, in the introduction of this new word by the honorable mover of these resolutions. Its adoption and use are indispensable to maintain those premises, from which his main conclusion is to be afterwards drawn. But, before showing that, allow me to remark, that this phraseology tends to keep out of sight the just view of our previous political history, as well as to suggest wrong ideas as to what was actually done when the present Constitution was agreed to. In 1789, and before this Constitution was adopted, the United States had already been in a Union, more or less close, for fifteen years. At least as far back as the meeting of the first Congress, in 1774, they had been, in some measure, and to some national purposes, united together. Before the Confederation of 1781, they had declared independence jointly, and had carried on the war jointly, both by sea and land; and this, not as separate States, but as one people. When, therefore, they formed that Confederation, and adopted its articles as articles of perpetual union, they did not come together for the first time; and, therefore, they did not speak of the States as *acceding* to the Confederation, although it was a league, and nothing but a league, and rested on nothing but plighted faith for its performance. Yet, even then, the States were not strangers to each other; there was a bond of union already subsisting between them; they were associated, United States; and the object of the Confederation was to make a stronger and better bond of union. Their representatives deliberated together on these proposed Articles of Confederation, and, being authorized by their respective States, finally "*ratified and confirmed*" them. Inasmuch as they were already in union, they did not speak of *acceding* to the new Articles of Confederation, but of *ratifying and confirming* them; and this language was not used inadvertently, because, in the same instru-

ment, *accession* is used in its proper sense, when applied to Canada, which was altogether a stranger to the existing Union. "Canada," says the 11th article, "*acceding* to this Confederation, and joining in the measures of the United States, shall be admitted into the Union."

Having thus used the terms *ratify and confirm*, even in regard to the old Confederation, it would have been strange, indeed, if the people of the United States, after its formation, and when they came to establish the present Constitution, had spoken of the States, or the people of the States, as *acceding* to this Constitution. Such language would have been ill suited to the occasion. It would have implied an existing separation or disunion among the States, such as never has existed since 1774. No such language, therefore, was used. The language actually employed is, *adopt, ratify, ordain, establish.*

Therefore, Sir, since any State, before she can prove her right to dissolve the Union, must show her authority to undo what has been done, no State is at liberty to *secede*, on the ground that she and other States have done nothing but *accede*. She must show that she has a right to *reverse* what has been *ordained*, to *unsettle* and *overthrow* what has been *established*, to *reject* what the people have *adopted*, and to *break up* what they have *ratified;* because these are the terms which express the transactions which have actually taken place. In other words, she must show her right to make a revolution.

If, Mr. President, in drawing these resolutions, the honorable member had confined himself to the use of Constitutional language, there would have been a wide and awful *hiatus* between his premises and his conclusion. Leaving out the two words *compact* and *accession*, which are not Constitutional modes of expression, and stating the matter precisely as the truth is, his first resolution would have affirmed that *the people of the several States ratified this Constitution, or form of government.* These are the very words of South Carolina herself, in her own act of ratification. Let, then, his first resolution tell the exact truth; let it state the fact precisely as it exists; let it say that the people of the several States ratified a Constitution, or form of government; and then, Sir, what will become of his inference in his second resolution, which is in these words, viz. "*that, as in all other cases of compact, among sovereign parties, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress*"? It is obvious, is it not, Sir? that this conclusion requires for its support quite other premises; it requires premises which speak of *accession* and of *compact* between sovereign powers; and, without such premises, it is altogether unmeaning.

Mr. President, if the honorable member will truly state what

the people did in forming this Constitution, and then state what they must do if they would now undo what they then did, he will unavoidably state a case of revolution. Let us see if it be not so. He must state, in the first place, that the people of the several States adopted and ratified this Constitution, or form of government; and, in the next place, he must state that they have a right to undo this; that is to say, that they have a right to discard the form of government which they have adopted, and to break up the Constitution which they have ratified. Now, Sir, this is neither more nor less than saying that they have a right to make a revolution. To reject an established government, to break up a political constitution, is revolution.

I deny that any man can state, accurately, what was done by the people, in establishing the present Constitution, and then state, accurately, what the people, or any part of them, must now do to get rid of its obligations, without stating an undeniable case of the overthrow of Government. I admit, of course, that the people may, if they choose, overthrow the Government. But, then, that is revolution. The doctrine now contended for is, that, by *nullification* or *secession*, the obligations and authority of the Government may be set aside or rejected, without revolution. But that is what I deny; and what I say is, that no man can state the case with historical accuracy, and in Constitutional language, without showing that the honorable gentleman's right, as asserted in his conclusion, is a revolutionary right merely; that it does not, and cannot exist, under the Constitution, or agreeably to the Constitution, but can come into existence only when the Constitution is overthrown. This is the reason, Sir, which makes it necessary to abandon the use of Constitutional language for a new vocabulary, and to substitute, in the place of plain historical facts, a series of assumptions. This is the reason why it is necessary to give new names to things, to speak of the Constitution, not as a constitution, but as a compact, and of the ratifications, by the people, not as ratifications, but as acts of accession.

Sir, I intend to hold the gentleman to the written record. In the discussion of a Constitutional question, I intend to impose upon him the restraints of Constitutional language. The people have ordained a Constitution; can they reject it without revolution? They have established a form of government; can they overthrow it without revolution? These are the true questions.

Allow me now, Mr. President, to inquire further into the extent of the propositions contained in the resolutions, and their necessary consequences.

Where sovereign communities are parties, there is no essential difference between a compact, a confederation, and a league. They all equally rest on the plighted faith of the sovereign party.

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Having thus used the terms *ratify and confirm*, even in regard to the old Confederation, it would have been strange, indeed, if the people of the United States, after its formation, and when they came to establish the present Constitution, had spoken of the States, or the people of the States, as *acceding* to this Constitution. Such language would have been ill suited to the occasion. It would have implied an existing separation or disunion among the States, such as never has existed since 1774. No such language, therefore, was used. The language actually employed is, *adopt, ratify, ordain, establish.*

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A league, or confederacy, is but a subsisting or continuing treaty.

The gentleman's resolutions, then, affirm, in effect, that these twenty-four United States are held together only by a subsisting treaty, resting for its fulfilment and continuance on no inherent power of its own, but on the plighted faith of each State; or, in other words, that our Union is but a league; and, as a consequence from this proposition, they further affirm that, as sovereigns are subject to no superior power, the States must decide, each for itself, of any alleged violation of the league; and if such violation be supposed to have occurred, each may adopt any mode or measure of redress which it shall think proper.

Other consequences naturally follow, too, from the main proposition. If a league between sovereign powers have no limitation as to the time of its duration, and contain nothing making it perpetual, it subsists only during the good pleasure of the parties, although no violation be complained of. If, in the opinion of either party, it be violated, such party may say that he will no longer fulfil its obligations on his part, but will consider the whole league or compact at an end, although it might be one of its stipulations that it should be perpetual. Upon this principle, the Congress of the United States, in 1798, declared null and void the treaty of alliance between the United States and France, though it professed to be a perpetual alliance.

If the violation of the league be accompanied with serious injuries, the suffering party, being sole judge of his own mode and measure of redress, has a right to indemnify himself by reprisals on the offending members of the league; and reprisals, if the circumstances of the case require it, may be followed by direct, avowed, and public war.

The necessary import of the resolutions, therefore, is, that the United States are connected only by a league; that it is in the good pleasure of every State to decide how long she will choose to remain a member of this league; that any State may determine the extent of her own obligations under it, and accept or reject what shall be decided by the whole; that she may also determine whether her rights have been violated, what is the extent of the injury done her, and what mode and measure of redress her wrongs may make it fit and expedient for her to adopt. The result of the whole is, that any State may secede at pleasure; that any State may resist a law which she herself may choose to say exceeds the power of Congress; and that, as a sovereign power, she may redress her own grievances, by her own arm, at her own discretion: she may make reprisals; she may cruise against the property of other members of the league; she may authorize captures, and make open war.

If, Sir, this be our political condition, it is time the people of the United States understood it. Let us look for a moment to the practical consequences of these opinions. One State, holding an embargo law unconstitutional, may declare her opinion, and withdraw from the Union. *She* secedes. Another, forming and expressing the same judgment on a law laying duties on imports, may withdraw also. *She* secedes. And as, in her opinion, money has been taken out of the pockets of her citizens illegally, under pretence of this law, and as she has power to redress their wrongs, she may demand satisfaction; and, if refused, she may take it with a strong hand. The gentleman has himself pronounced the collection of duties, under existing laws, to be nothing but robbery. Robbers, of course, may be rightfully dispossessed of the fruits of their flagitious crimes; and, therefore, reprisals, impositions on the commerce of other States, foreign alliances against them, or open war, are all modes of redress justly open to the discretion and choice of South Carolina; for she is to judge of her own rights, and to seek satisfaction for her own wrongs, in her own way.

But, Sir, a *third* State is of opinion, not only that these laws of imposts are Constitutional, but that it is the absolute duty of Congress to pass and to maintain such laws; and that, by omitting to pass and maintain them, its Constitutional obligations would be grossly disregarded. She relinquished the power of protection, she might allege, and allege truly, herself, and gave it up to Congress, on the faith that Congress would exercise it. If Congress now refuse to exercise it, Congress does, as she may insist, break the condition of the grant, and thus manifestly violate the Constitution; and for this violation of the Constitution, *she* may threaten to secede also. Virginia may secede, and hold the fortresses in the Chesapeake. The Western States may secede, and take to their own use the public lands. Louisiana may secede, if she choose, form a foreign alliance, and hold the mouth of the Mississippi. If one State may secede, ten may do so—twenty may do so—twenty-three may do so. Sir, as these secessions go on, one after another, what is to constitute the United States? Whose will be the army? Whose the navy? Who will pay the debts? Who fulfil the public treaties? Who perform the Constitutional guaranties? Who govern this District and the Territories? Who retain the public property?

Mr. President, every man must see that these are all questions which can arise only *after a revolution*. They presuppose the breaking up of the Government. While the Constitution lasts, they are repressed; they spring up to annoy and startle us only from its grave.

The Constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must

bring these consequences with it, is REVOLUTIONARY. And NULLIFICATION is equally REVOLUTIONARY. What is revolution? Why, Sir, that is revolution, which overturns, or controls, or successfully resists, the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now, Sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the Executive Magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, *a revolution* will have commenced in South Carolina. She will have thrown off the authority to which her citizens have heretofore been subject. She will have declared her own opinions and her own will to be above the laws and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power, as the American revolution of 1776. That revolution did not subvert government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress; if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases,—she will relieve herself from a paramount power as distinctly as the American colonies did the same thing in 1776. In other words, she will achieve, as to herself, a revolution.

But, Sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the Constitution, as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire Government, appears to me the wildest illusion, and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullification, with the avowed intent, nevertheless, not

to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a General Government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the Constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and if the laws cannot be executed every where, they cannot long be executed any where. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see,—every man sees,—that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded because a single State interposes her veto, and threatens resistance! The result of the gentleman's opinions, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the Constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This is precisely the evil experienced under the old Confederation, and for remedy of which this Constitution was adopted. The leading object in establishing this Government—an object forced on the country by the condition of the times, and the absolute necessity of the law—was to give to Congress power to lay and collect imposts *without the consent of particular States.* The revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the States neglected them; there was no power of coercion but war; Congress could not lay imposts, or other taxes, by its own authority; the whole General Government, therefore, was little more than a name. The Articles of Confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a Government which should have power, of itself, to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, with-

out asking the consent of the State Governments. This was the very power on which the new Constitution was to depend for all its ability to do good; and, without it, it can be no government, now or at any time. Yet, Sir, it is precisely against this power, so absolutely indispensable to the very being of the Government, that South Carolina directs her ordinance. She attacks the Government in its authority to raise revenue—the very main spring of the whole system; and, if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufactures. It is a revenue law; it is the very law by force of which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the Government for the means of maintaining itself and performing its duties.

Mr. President, the alleged right of a State to decide Constitutional questions for herself, necessarily leads to force, because other States must have the same right, and because different States will decide differently; and when these questions arise between States, if there be no superior power, they can be decided only by the law of force. On entering into the Union, the people of each State gave up a part of their own power to make laws for themselves, in consideration that, as to common objects, they should have a part in making laws for other States. In other words, the people of all the States agreed to create a common Government, to be conducted by common councils. Pennsylvania, for example, yielded the right of laying imposts in her own ports, in consideration that the new Government, in which she was to have a share, should possess the power of laying imposts in all the States. If South Carolina now refuses to submit to this power, she breaks the condition on which other States entered into the Union. She partakes of the common councils, and therein assists to bind others, while she refuses to be bound herself. It makes no difference in the case, whether she does all this without reason or pretext, or whether she sets up as a reason that, in her judgment, the acts complained of are unconstitutional. In the judgment of other States, they are not so. It is nothing to them that she offers some reason or some apology for her conduct, if it be one which they do not admit. It is not to be expected that any State will violate her duty without some plausible pretext. That would be too rash a defiance of the opinion of mankind. But if it be a pretext which lies in her own breast; if it be no more than an opinion which she says she has formed, how can other States be satisfied with this? How can they allow her to be judge of her own obligations? Or, if she may judge of her obligations, may they not judge of their rights also? May not the

twenty-three entertain an opinion as well as the twenty-fourth? And, if it be their right, in their own opinion, as expressed in the common council, to enforce the law against her, how is she to say that her right and her opinion are to be every thing, and their right and their opinion nothing?

Mr. President, if we are to receive the Constitution as the text, and then to lay down, in its margin, the contradictory commentaries which have been, and which may be, made by different States, the whole page would be a polyglot indeed. It would speak with as many tongues as the builders of Babel, and in dialects as much confused, and mutually as unintelligible. The very instance now before us presents a practical illustration. The law of the last session is declared Unconstitutional in South Carolina, and obedience to it is refused. In other States, it is admitted to be strictly Constitutional. You walk over the limit of its authority, therefore, when you pass a State line. On one side, it is law; on the other side, a nullity; and yet it is passed by a common Government, having the same authority in all the States.

Such, Sir, are the inevitable results of this doctrine. Beginning with the original error, that the Constitution of the United States is nothing but a compact between sovereign States; asserting, in the next step, that each State has a right to be its own sole judge of the extent of its own obligations, and consequently of the Constitutionality of laws of Congress; and, in the next, that it may oppose whatever it sees fit to declare unconstitutional, and that it decides for itself on the mode and measure of redress,—the argument arrives at once at the conclusion, that what a State dissents from, it may nullify; what it opposes, it may oppose by force; what it decides for itself, it may execute by its own power; and that, in short, it is, itself, supreme over the legislation of Congress, and supreme over the decisions of the National Judicature; supreme over the Constitution of the country, supreme over the supreme law of the land. However it seeks to protect itself against these plain inferences, by saying that an unconstitutional law is no law, and that it only opposes such laws as are unconstitutional, yet this does not, in the slightest degree, vary the result; since it insists on deciding this question for itself; and, in opposition to reason and argument, in opposition to practice and experience, in opposition to the judgment of others, having an equal right to judge, it says, only, "Such is my opinion, and my opinion shall be my law, and I will support it by my own strong hand. I denounce the law; I declare it unconstitutional; that is enough; it shall not be executed. Men in arms are ready to resist its execution. An attempt to enforce it shall cover the land with blood. Elsewhere, it may be binding; but here, it is trampled under foot."

This, Sir, is practical nullification.——

And now, Sir, against all these theories and opinions, I maintain—

1. That the Constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

3. That there is a supreme law, consisting of the Constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

4. That an attempt by a State to abrogate, annul, or nullify, an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the General Government, and on the equal rights of other States; a plain violation of the Constitution, and a proceeding essentially revolutionary in its character and tendency.

Whether the Constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been, in some way, clothed with power. We all admit that it speaks with authority. The first question, then, is, What does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact, between sovereign States? It is to be remembered, Sir, that the Constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed drawn, but not executed. The Convention had framed it; sent it to Congress, then sitting under the Confederation; Congress had transmitted it to the State Legislatures; and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular

will, and was to be received as the expression of that will. What the Constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a "compact"? Certainly not. It uses the word *compact* but once, and that is when it declares that the States shall enter into no compact. Does it call itself a "league," a "confederacy," a "subsisting treaty between the States"? Certainly not. There is not a particle of such language in all its pages. But it declares itself a CONSTITUTION. What is a *constitution*? Certainly not a league, compact, or confederacy, but *a fundamental law.* That fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the *constitution of a State.* Those primary rules which concern the body itself, and the very being of the political society, the form of government, and the manner in which power is to be exercised—all, in a word, which form together the *constitution of a State,*—these are the fundamental laws. This, Sir, is the language of the public writers. But do we need to be informed, in this country, what a *constitution* is? Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the constitution of one of the States; and the Constitution of the United States speaks of itself as being an instrument of the same nature. It says, this *Constitution* shall be the law of the land, any thing in any State *constitution* to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into by the United States, shall be as valid under this *Constitution*, as under the *Confederation.* It does not say, as valid under this *compact*, or this league, or this confederation, as under the former confederation, but as valid under this *Constitution.*

This, then, Sir, is declared to be a *constitution.* A constitution is the fundamental law of the state; and this is expressly declared to be the supreme law. It is as if the people had said, "we prescribe this fundamental law," or "this supreme law," for they do say that they establish this Constitution, and that it shall be the supreme law. They say that they *ordain and establish* it. Now, Sir, what is the common application of these words? We do not speak of *ordaining* leagues and compacts. If this was intended to be a compact or league, and the States to be parties to it, why was it not so said? Why is there found no one expression in the whole instrument indicating such intent? The old Confederation was expressly called a *league;* and into this league it was declared that the States, as States, severally entered. Why was not similar language used in the Constitution, if a similar intention had existed? Why was it not said, "the States enter into this new league," "the States form this new confederation," or "the

States agree to this new compact"? Or why was it not said, in the language of the gentleman's resolution, that the people of the several States acceded to this compact in their sovereign capacities? What reason is there for supposing that the framers of the Constitution rejected expressions appropriate to their own meaning, and adopted others wholly at war with that meaning?

Again, Sir, the Constitution speaks of that political system which it established as "*the Government of the United States.*" Is it not doing strange violence to language to call a league or a compact between sovereign powers a *government?* The government of a State is that organization in which the political power resides. It is the political being created by the constitution or fundamental law. The broad and clear difference between a government and a league, or compact, is, that a government is a body politic; it has a will of its own; and it possesses powers and faculties to execute its own purposes. Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to ensure its execution; although, in such case, this power is but the force of one party against the force of another; that is to say, the power of war. But a *government* executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments, is not war. It contemplates no opposing party having a right of resistance. It rests on its own power to enforce its own will; and, when it ceases to possess this power, it is no longer a government.

Mr. President, I concur so generally in the very able speech of the gentleman from Virginia, near me [Mr. RIVES], that it is not without diffidence and regret that I venture to differ with him on any point. His opinions, Sir, are redolent of the doctrines of a very distinguished school, for which I have the highest regard, of whose doctrines I can say, what I also can say of the gentleman's speech, that, while I concur in the results, I must be permitted to hesitate about some of the premises. I do not agree that the Constitution is a compact between States in their sovereign capacities. I do not agree that, in strictness of language, *it is a compact* at all. But I do agree, *that it is founded on consent, or agreement*, or *on compact*, if the gentleman prefers that word, and means no more by it than voluntary consent or agreement. The Constitution, Sir, is not a contract, but the result of a contract; meaning, by contract, no more than assent. Founded on consent, it is a government proper. Adopted by the agreement of the people of the United States, when adopted, it has become a Constitution. The people have agreed to make a Constitution; but when made, that Constitution becomes what its name imports. It is no longer a mere agreement. Our laws, Sir, have their founda-

tion in the agreement or consent of the two Houses of Congress. We say, habitually, that one House proposes a bill, and the other agrees to it; but the result of this agreement is not a compact, but a law. The law, the statute, is not the agreement, but something created by the agreement; and something which, when created, has a new character, and acts by its own authority. So the Constitution of the United States, founded in or on the consent of the people, may be said to rest on compact, or consent; but it is itself not the compact, but its result. When a people agree to erect a government, and actually erect it, the thing is done, and the agreement is at an end. The compact is executed, and the end designed by it attained. Henceforth, the fruit of the agreement exists, but the agreement itself is merged in its own accomplishment; since there can be no longer a subsisting agreement, or compact, *to form* a constitution or government, after that constitution or government has been actually formed and established.

It appears to me, Mr. President, that the plainest account of the establishment of this Government presents the most just and philosophical view of its foundation. The people of the several States had their separate State Governments; and between the States there also existed a Confederation. With this condition of things the people were not satisfied, as the Confederation had been found not to fulfil its intended objects. It was *proposed*, therefore, to erect a new, Common Government, which should possess certain definite powers, such as regarded the prosperity of the people of all the States, and to be formed upon the general model of American constitutions. This proposal was assented to, and an instrument was presented to the people of the several States for their consideration. They approved it, and agreed to adopt it, as a Constitution. They executed that agreement; they adopted the Constitution as a Constitution, and henceforth it must stand as a Constitution until it shall be altogether destroyed. Now, Sir, is not this the truth of the whole matter? And is not all that we have heard of compact between sovereign States, the mere effect of a theoretical and artificial mode of reasoning upon the subject? a mode of reasoning which disregards plain facts, for the sake of hypothesis?

Mr. President, the nature of sovereignty, or sovereign power, has been extensively discussed by gentlemen on this occasion, as it generally is, when the origin of our Government is debated. But I confess myself not entirely satisfied with arguments and illustrations drawn from that topic. The sovereignty of government is an idea belonging to the other side of the Atlantic. No such thing is known in North America. Our governments are all limited. In Europe, sovereignty is of feodal origin, and imports no more than the state of the sovereign. It comprises his rights, du-

ties, exemptions, prerogatives and powers. But, with us, all power is with the people. They, alone, are sovereign; and they erect what governments they please, and confer on them such powers as they please. None of these governments is sovereign, in the European sense of the word, all being restrained by written constitutions. It seems to me, therefore, that we only perplex ourselves when we attempt to explain the relations existing between the General Government and the several State Governments, according to those ideas of sovereignty which prevail under systems essentially different from our own.

But, Sir, to return to the Constitution itself; let me inquire what it relies upon for its own continuance and support. I hear it often suggested, that the States, by refusing to appoint Senators and Electors, might bring this Government to an end. Perhaps that is true; but the same may be said of the State Governments themselves. Suppose the Legislature of a State, having the power to appoint the governor and the judges, should omit that duty, would not the State Government remain unorganized? No doubt, all elective governments may be broken up, by a general abandonment, on the part of those intrusted with political powers, of their appropriate duties. But one popular government has, in this respect, as much security as another. The maintenance of this Constitution does not depend on the plighted faith of the States, as States, to support it; and this again shows that it is not a league. It relies on individual duty and obligation.

The Constitution of the United States creates direct relations between this Government and individuals. This Government may punish individuals for treason, and all other crimes in the code, when committed against the United States. It has power, also, to tax individuals, in any mode, and to any extent; and it possesses the further power of demanding from individuals military service. Nothing, certainly, can more clearly distinguish a government from a confederation of states, than the possession of these powers. No closer relations can exist between individuals and any government.

On the other hand, the Government owes high and solemn duties to every citizen of the country. It is bound to protect him in his most important rights and interests. It makes war for his protection, and no other government in the country can make war. It makes peace for his protection, and no other government can make peace. It maintains armies and navies for his defence and security, and no other government is allowed to maintain them. He goes abroad beneath its flag, and carries over all the earth a national character imparted to him by this Government, and which no other government can impart. In whatever relates to war, to peace, to commerce, he knows no other government. All these,

Sir, are connections as dear and as sacred as can bind individuals to any government on earth. It is not, therefore, a compact between States, but a government proper, operating directly upon individuals, yielding to them protection on the one hand, and demanding from them obedience on the other.

There is no language in the whole Constitution applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants, and stipulations? And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the Articles of Confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but, in the Constitution, there is nothing of that kind. The reason is, that, in the Constitution, it is the *people* who speak, and not the States. The people ordain the Constitution, and therein address themselves to the States, and to the Legislatures of States, in the language of injunction and prohibition. The Constitution utters its behests in the name and by authority of the people, and it exacts not from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint Senators and Electors. It is not a matter resting in State discretion or State pleasure. The Constitution has taken better care of its own preservation. It lays its hand on individual conscience and individual duty. It incapacitates any man to sit in the Legislature of a State, who shall not first have taken his solemn oath to support the Constitution of the United States. From the obligation of this oath, no State power can discharge him. All the members of all the State Legislatures are as religiously bound to support the Constitution of the United States as they are to support their own State constitution. Nay, Sir, they are as solemnly sworn to support it as we ourselves are, who are members of Congress.

No member of a State Legislature can refuse to proceed, at the proper time, to elect Senators to Congress, or to provide for the choice of Electors of President and Vice-President, any more than the members of this Senate can refuse, when the appointed day arrives, to meet the members of the other House, to count the votes for those officers, and ascertain who are chosen. In both cases, the duty binds, and with equal strength, the conscience of the individual member, and it is imposed on all by an oath in the same words. Let it, then, never be said, Sir, that it is a matter of discretion with the States, whether they will continue the Government, or break it up by refusing to appoint Senators and to elect Electors. They have no discretion in the matter. The members of their Legislatures cannot avoid doing either, so often as

the time arrives, without a direct violation of their duty and their oaths; such a violation as would break up any other government.

Looking still further to the provisions of the Constitution itself, in order to learn its true character, we find its great apparent purpose to be, to unite the people of all the States under one General Government, for certain definite objects, and, to the extent of this union, to restrain the separate authority of the States. Congress only can declare war; therefore, when one State is at war with a foreign nation, all must be at war. The President and the Senate only can make peace; when peace is made for one State, therefore, it must be made for all.

Can any thing be conceived more preposterous than that any State should have power to nullify the proceedings of the General Government respecting peace and war? When war is declared by a law of Congress, can a single State nullify that law, and remain at peace? And yet she may nullify that law, as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President,—and no ingenuity of argument, no subtlety of distinction, can evade it,—that, as to certain purposes, the people of the United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of imposts. The very end and purpose of the Constitution was, to make them one people in these particulars; and it has effectually accomplished its objects. All this is apparent on the face of the Constitution itself. I have already said, Sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the Confederation, and forming a new Constitution. Among innumerable proofs of this, before the assembling of the Convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

But, Sir, let us go to the actual formation of the Constitution; let us open the journal of the Convention itself, and we shall see that the very first resolution which the Convention adopted, was, "THAT A NATIONAL GOVERNMENT OUGHT TO BE ESTABLISHED, CONSISTING OF A SUPREME LEGISLATURE, JUDICIARY, AND EXECUTIVE."

This itself completely negatives all idea of league, and compact, and confederation. Terms could not be chosen more fit to express an intention to establish a National Government, and to banish forever all notion of a compact between sovereign States.

This resolution was adopted on the 30th of May. Afterwards, the style was altered, and, instead of being called a National Government, it was called the Government of the United States; but

the substance of this resolution was retained, and was at the head of that list of resolutions which was afterwards sent to the committee who were to frame the instrument.

It is true, there were gentlemen in the Convention, who were for retaining the Confederation, and amending its Articles; but the majority was against this, and was for a National Government. Mr. Patterson's propositions, which were for continuing the Articles of Confederation with additional powers, were submitted to the Convention on the 15th of June, and referred to the committee of the whole. And the resolutions forming the basis of a National Government, which had once been agreed to in the committee of the whole, and reported, were recommitted to the same committee, on the same day. The Convention, then, in committee of the whole, on the 19th of June, had both these plans before them; that is to say, the plan of a confederacy, or compact, between States, and the plan of a National Government. Both these plans were considered and debated, and the committee reported, "*That they do not agree to the propositions offered by the honorable Mr. Patterson, but that they again submit the resolutions formerly reported.*" If, Sir, any historical fact in the world be plain and undeniable, it is that the Convention deliberated on the expediency of continuing the Confederation, with some amendments, and rejected that scheme, and adopted the plan of a National Government, with a Legislature, an Executive, and a Judiciary of its own. They were asked to preserve the league; they rejected the proposition. They were asked to continue the existing compact between States; they rejected it. They rejected compact, league, and confederation, and set themselves about framing the Constitution of a National Government; and they accomplished what they undertook.

If men will open their eyes fairly to the lights of history, it is impossible to be deceived on this point. The great object was to supersede the Confederation, by a regular government; because, under the Confederation, Congress had power only to make requisitions on States; and if States declined compliance, as they did, there was no remedy but war against such delinquent States. It would seem, from Mr. Jefferson's correspondence, in 1786 and 1787, that he was of opinion that even this remedy ought to be tried. "There will be no money in the treasury," said he, "till the confederacy shows its teeth;" and he suggests that a single frigate would soon levy, on the commerce of a delinquent State, the deficiency of its contribution. But this would be war; and it was evident that a confederacy could not long hold together, which should be at war with its members. The Constitution was adopted to avoid this necessity. It was adopted that there might be a Government which should act directly on individuals, without bor-

rowing aid from the State Governments. This is clear as light itself on the very face of the provisions of the Constitution, and its whole history tends to the same conclusion. Its framers gave this very reason for their work in the most distinct terms. Allow me to quote but one or two proofs, out of hundreds. That State, so small in territory, but so distinguished for learning and talent,—Connecticut,—had sent to the General Convention, among other members, Samuel Johnston and Oliver Ellsworth. The Constitution having been framed, it was submitted to a convention of the people of Connecticut for ratification on the part of that State; and Mr. Johnston and Mr. Ellsworth were also members of this convention. On the first day of the debates, being called on to explain the reasons which led the Convention at Philadelphia to recommend such a Constitution, after showing the insufficiency of the existing confederacy, inasmuch as it applied to States, as States, Mr. Johnston proceeded to say—

"The Convention saw this imperfection in attempting to legislate for States in their political capacity—that the coercion of law can be exercised by nothing but a military force. They have, therefore, gone upon entirely new ground. They have formed one new nation out of the individual States. The Constitution vests in the General Legislature a power to make laws in matters of national concern; to appoint judges to decide upon these laws; and to appoint officers to carry them into execution. This excludes the idea of an armed force. The power which is to enforce these laws, is to be a legal power, vested in proper magistrates. The force which is to be employed, is the energy of law; and this force is to operate only upon individuals who fail in their duty to their country. This is the peculiar glory of the Constitution—that it depends upon the mild and equal energy of the magistracy for the execution of the laws."

In the further course of the debate, Mr. Ellsworth said—

"In republics, it is a fundamental principle, that the majority govern, and that the minority comply with the general voice. How contrary, then, to republican principles, how humiliating, is our present situation! A single State can rise up, and put a *veto* upon the most important public measures. We have seen this actually take place: a single State has controlled the general voice of the Union; a minority, a very small minority, has governed us. So far is this from being consistent with republican principles, that it is, in effect, the worst species of monarchy.

"Hence we see how necessary for the Union is a coercive

principle. No man pretends the contrary. We all see and feel this necessity. The only question is, Shall it be a coercion of law, or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States one against another. I am for coercion by law; that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies, States, in their political capacity. No coercion is applicable to such bodies, but that of an armed force. If we should attempt to execute the laws of the Union, by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity. But this legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union."

Indeed, Sir, if we look to all cotemporary history, to the writings of the Federalist, to the debates in the conventions, to the publications of friends and foes, they all agree, that a change had been made from a confederacy of States to a different system; they all agree, that the Convention had formed a Constitution for a National Government. With this result some were satisfied, and some were dissatisfied; but all admitted that the thing had been done. In none of these various productions and publications did any one intimate that the new Constitution was but another compact between States in their sovereign capacities. I do not find such an opinion advanced in a single instance. Every where, the people were told that the old Confederation was to be abandoned, and a new system to be tried; that a proper government was proposed, to be founded in the name of the people, and to have a regular organization of its own. Every where, the people were told that it was to be a government with direct powers to make laws over individuals, and to lay taxes and imposts without the consent of the States. Every where, it was understood to be a popular Constitution. It came to the people for their adoption, and was to rest on the same deep foundation as the State constitutions themselves. Its most distinguished advocates, who had been themselves members of the Convention, declared that the very object of submitting the Constitution to the people was, to *preclude the possibility of its being regarded as a mere compact.* "However gross a heresy," say the writers of the Federalist, "it may be to maintain that a party to a *compact* has a right to revoke that *compact*, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our National Government deeper than in the mere sanction of

delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE."

Such is the language, Sir, addressed to the people, while they yet had the Constitution under consideration. The powers conferred on the new Government were perfectly well understood to be conferred, not by any State, or the people of any State, but by the people of the United States. Virginia is more explicit, perhaps, in this particular, than any other State. Her convention, assembled to ratify the Constitution, " in the name and behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, *being derived from the people of the United States*, may be resumed by them whenever the same shall be perverted to their injury or oppression."

Is this language which describes the formation of a compact between States? or language describing *the grant of powers to a new government, by the whole people of the United States?*

Among all the other ratifications, there is not one which speaks of the Constitution as a compact between States. Those of Massachusetts and New Hampshire express the transaction, in my opinion, with sufficient accuracy. They recognize the divine goodness " in affording THE PEOPLE OF THE UNITED STATES an opportunity of entering into an explicit and solemn compact with each other, *by assenting to and ratifying a new Constitution.*" You will observe, Sir, that it is the PEOPLE, and not the States, who have entered into this compact; and it is the PEOPLE of all the United States. These conventions, by this form of expression, meant merely to say, that the people of the United States had, by the blessing of Providence, enjoyed the opportunity of establishing a new Constitution, *founded in the consent of the people.* This consent of the people has been called, by European writers, the *social compact;* and, in conformity to this common mode of expression, these conventions speak of that assent, on which the new Constitution was to rest, as an explicit and solemn compact, not which the States had entered into with each other, but which the *people* of the United States had entered into.

Finally, Sir, how can any man get over the words of the Constitution itself?—"WE, THE PEOPLE OF THE UNITED STATES, DO ORDAIN AND ESTABLISH THIS CONSTITUTION." These words must cease to be a part of the Constitution, they must be obliterated from the parchment on which they are written, before any human ingenuity or human argument can remove the popular basis on which that Constitution rests, and turn the instrument into a mere compact between sovereign States.

The second proposition, Sir, which I propose to maintain, is,

that no State authority can dissolve the relations subsisting between the Government of the United States and individuals; that nothing can dissolve these relations but revolution; and that, therefore, there can be no such thing as *secession* without revolution. All this follows, as it seems to me, as a just consequence, if it be first proved that the Constitution of the United States is a government proper, owing protection to individuals, and entitled to their obedience.

The people, Sir, in every State, live under two governments. They owe obedience to both. These governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival houses in England; nor is it a dispute between a government *de facto* and a government *de jure*. It is the case of a division of powers, between two governments, made by the people, to which both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other: the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America; and, though new and singular, it is not incomprehensible. The State constitutions are established by the people of the States. This Constitution is established by the people of all the States. How, then, can a State secede? How can a State undo what the whole people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? How can the members of her Legislature renounce their own oaths? Sir, secession, as a revolutionary right, is intelligible; as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it. But, as a practical right, existing under the Constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity; for it supposes resistance to Government, under the authority of Government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths, without responsibility; it supposes the total overthrow of Government, without revolution.

The Constitution, Sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected, at some period, to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment, at any time. It declares

that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a Constitution of Government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just, political principles; whatsoever is permanent in the structure of human society; whatsoever there is which can derive an enduring character from being founded on deep-laid principles of Constitutional liberty, and on the broad foundations of the public will,—all these unite to entitle this instrument to be regarded as a permanent Constitution of Government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the Constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the Constitution. But I contend, further, that it rightfully belongs to Congress, and to the courts of the United States, to settle the construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, *Who is to construe finally the Constitution of the United States?* We all agree that the Constitution is the supreme law; but who shall interpret that law? In our system of the division of powers between different governments, controversies will necessarily sometimes arise, respecting the extent of the powers of each. Who shall decide these controversies? Does it rest with the General Government, in all or any of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the General Government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the Constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority of the United States to overrule or reverse. Of course she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the courts of the United States, because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the Constitution of the United States to be but a compact, to which she is a party, and a sovereign party. If this be established, then the inference is sup-

posed to follow, that, being sovereign, there is no power to control her decision; and her own judgment on her own compact is and must be conclusive.

I have already endeavored, Sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, Sir, that a doctrine, bringing such consequences with it, is not well founded; that it has nothing to stand on but theory and assumption; and that it is refuted by plain and express Constitutional provisions. I think the government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication, and by express grant.

It will not be denied, Sir, that this authority naturally belongs to all governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State Governments themselves possess it, except in that class of questions which may arise between them and the General Government, and in regard to which they have surrendered it, as well by the nature of the case, as by clear Constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the Constitution of the State, is a question which the State Legislature or the State Judiciary must determine. We all know that these questions arise daily in the State Governments, and are decided by those Governments; and I know no government which does not exercise a similar power.

Upon general principles, then, the Government of the United States possesses this authority: and this would hardly be denied, were it not that there are other governments. But since there are State Governments, and since these, like other governments, ordinarily construe their own powers, if the Government of the United States construes its own powers also, which construction is to prevail, in the case of opposite constructions? And again, as in the case now actually before us, the State Governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, Sir, even if the Constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain that, in a Constitution existing over four-and-twenty States, with equal authority over all, *one* could claim a right of

construing it for the whole. This would seem a manifest impropriety—indeed, an absurdity. If the Constitution is a government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national government. But as it is a Government, as it has a legislative power of its own, and a judicial power coëxtensive with the legislative, the inference is irresistible, that this Government, thus created *by* the whole, and *for* the whole, must have an authority superior to that of the particular government of any one part. Congress is the Legislature of all the people of the United States; the Judiciary of the General Government is the Judiciary of all the people of the United States. To hold, therefore, that this Legislature and this Judiciary are subordinate in authority to the Legislature and Judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four-and-twenty States might bid defiance to its authority. Without express provision in the Constitution, therefore, Sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist in a government intended for the whole, the inevitable consequence is, that the laws of this legislative power, and the decisions of this judicial power, must be binding on and over the whole. No man can form the conception of a government existing over four-and-twenty States, with a regular legislative and judicial power, and of the existence, at the same time, of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a government. I maintain, therefore, Sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress, and the decisions of the National Courts, must be of higher authority than State laws and State decisions. If this be not so, there is, there can be, no general government.

But, Mr. President, the Constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the Constitution adds, as a distinct and substantive

clause, the following, viz. "*To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.*" If this means any thing, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it, and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, Sir, to the Judiciary, the Constitution is still more express and emphatic. It declares that the judicial power shall extend to all *cases* in law or equity arising under the Constitution, laws of the United States, and treaties; that there shall be *one* Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the Constitution,—that is, if a case arises depending on the construction of the Constitution,—the judicial power of the United States extends to it. It reaches the *case, the question;* it attaches the power of the national judicature to the *case* itself, in whatever court it may arise or exist; and in this *case* the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision, than is here done, for subjecting Constitutional questions to the ultimate decision of the Supreme Court. And, Sir, this is exactly what the Convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the Constitution. One of the first resolutions, adopted by the Convention, was in these words, viz. "that the jurisdiction of the national judiciary shall extend to cases which respect *the collection of the national revenue*, and questions which involve the national peace and harmony." Now, Sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the national judiciary should extend to these questions, *with a paramount authority.* It is not to be supposed that the Convention intended that the power of the national judiciary should extend to these questions, and that the judicatures of the States should also extend to them, *with equal power of final decision.* This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the Constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment

the existing evil, and the apprehended danger, by increasing, still further, the chances of discordant judgments. Why, Sir, has it become a settled axiom in politics, that every government must have a judicial power coëxtensive with its legislative power? Certainly, there is only this reason, viz. that the laws may receive a uniform interpretation, and a uniform execution. This object can be no otherwise attained. A statute is what it is judicially interpreted to be; and if it be construed one way in New Hampshire, and another way in Georgia, there is no uniform law. One supreme court, with appellate and final jurisdiction, is the natural and only adequate means, in any government, to secure this uniformity. The Convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now wears in the Constitution. It is undeniably true, then, that the framers of the Constitution intended to create a national judicial power, which should be paramount on national subjects. And after the Constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates (Mr. Madison) told the people, that it *was true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government.* Mr. Martin, who had been a member of the Convention, asserted the same thing to the Legislature of Maryland, and urged it as a reason for rejecting the Constitution. Mr. Pinckney, himself also a leading member of the Convention, declared it to the people of South Carolina. Every where, it was admitted, by friends and foes, that this power was in the Constitution. By some it was thought dangerous; by most it was thought necessary; but, by all, it was agreed to be a power actually contained in the instrument. The Convention saw the absolute necessity of some control in the National Government over State laws. Different modes of establishing this control were suggested and considered. At one time, it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced; that is to say, a provision by which the federal courts should have authority to overrule such State laws as might be in manifest contravention of the Constitution. The writers of the Federalist, in explaining the Constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped from the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringe-

ment of the Constitutional power of the General Government. Indeed, Sir, allow me to ask again, if the national judiciary was not to exercise a power of revision, on Constitutional questions, over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this Government, unless it be for the sake of maintaining a uniformity of decision, on questions arising under the Constitution and laws of Congress, and ensuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, Sir, is it possible that uniformity can be preserved?

Gentlemen appear to me, Sir, to look at but one side of the question. They regard only the supposed danger of trusting a government with the interpretation of its own powers. But will they view the question in its other aspect? Will they show us how it is possible for a government to get along with four-and-twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in these cases, the State would be always right, and the General Government always wrong. But suppose the reverse; suppose the State wrong; (and, since they differ, some of them must be wrong;) are the most important and essential operations of the Government to be embarrassed and arrested, because one State holds a contrary opinion? Mr. President, every argument which refers the Constitutionality of acts of Congress to State decision appeals from the majority to the minority; it appeals from the common interest to a particular interest; from the councils of all to the council of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it is clear, Sir, that the Constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the United States the appellate tribunal in all cases of a Constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject by reading the remarks made upon it by Mr. Ellsworth, in the Convention of Connecticut;—a gentleman, Sir, who has left behind him, on the records of the Government of his country, proofs of the clearest intelligence and of the deepest sagacity, as well as of the utmost purity and integrity of character. "This Constitution," says he, "defines the extent of the powers of the General Government. If the General Legislature should, at any time, overleap their limits, the judicial department is a Constitutional check. If the United States go beyond their powers; if they make a law which the Constitution does not authorize, it is void; and the judiciary power, the national judges, who, to secure their impartiality, are to be made

difference, as to the binding authority of an act of Congress, and of the duty of a State to respect it, whether it passed by a mere majority of both Houses, or by three fourths of each, or the unanimous vote of each? Within the limits and restrictions of the Constitution, the Government of the United States, like all other popular governments, acts by majorities. It can act no otherwise. Whoever, therefore, denounces the government of majorities, denounces the government of his own country, and denounces all free governments. And whoever would restrain these majorities, while acting within their Constitutional limits, by an external power, whatever he may intend, asserts principles which, if adopted, can lead to nothing else than the destruction of the Government itself.

Does not the gentleman perceive, Sir, how his argument against majorities might here be retorted upon him? Does he not see how cogently he might be asked, whether it be the character of nullification to practise what it preaches? Look to South Carolina, at the present moment. How far are the rights of minorities there respected? I confess, Sir, I have not known, in peaceable times, the power of the majority carried with a higher hand, or upheld with more relentless disregard of the rights, feelings and principles of the minority—a minority embracing, as the gentleman himself will admit, a large portion of the worth and respectability of the State; a minority comprehending, in its numbers, men who have been associated with him, and with us, in these halls of legislation; men who have served their country at home and honored it abroad; men who would cheerfully lay down their lives for their native State, in any cause which they could regard as the cause of honor and duty; men above fear, and above reproach; whose deepest grief and distress spring from the conviction, that the present proceedings of the State must ultimately reflect discredit upon her. How is this minority, how are these men, regarded? They are enthralled and disfranchised by ordinances and acts of legislation; subjected to tests and oaths, incompatible, as they conscientiously think, with oaths already taken, and obligations already assumed; they are proscribed and denounced, as recreants to duty and patriotism, and slaves to a foreign power. Both the spirit which pursues them, and the positive measures which emanate from that spirit, are harsh and proscriptive, beyond all precedent within my knowledge, except in periods of professed revolution.

It is not, Sir, one would think, for those who approve these proceedings to complain of the power of majorities.

Mr. President, all popular governments rest on two principles, or two assumptions:

First, That there is so far a common interest, among those over

whom the government extends, as that it may provide for the defence, protection, and good government of the whole, without injustice or oppression to parts.

Second, That the representatives of the people, and especially the people themselves, are secure against general corruption, and may be trusted, therefore, with the exercise of power.

Whoever argues against these principles, argues against the practicability of all free governments. And whoever admits these, must admit, or cannot deny, that power is as safe in the hands of Congress as in those of other representative bodies. Congress is not irresponsible. Its members are agents of the people, elected by them, answerable to them, and liable to be displaced or superseded at their pleasure; and they possess as fair a claim to the confidence of the people, while they continue to deserve it, as any other public political agents.

If, then, Sir, the manifest intention of the Convention, and the cotemporary admission of both friends and foes, prove any thing; if the plain text of the instrument itself, as well as the necessary implication from other provisions, prove any thing; if the early legislation of Congress, the course of judicial decisions, acquiesced in by all the States for forty years, prove any thing—then it is proved that there is a supreme law, and a final interpreter.

My fourth and last proposition, Mr. President, was, that any attempt by a State to abrogate or nullify acts of Congress, is a usurpation on the powers of the General Government, and on the equal rights of other States, a violation of the Constitution, and a proceeding essentially revolutionary. This is undoubtedly true, if the preceding propositions be regarded as proved. If the Government of the United States be trusted with the duty, in any department, of declaring the extent of its own powers, then a State ordinance, or act of legislation, authorizing resistance to an act of Congress, on the alleged ground of its unconstitutionality, is manifestly a usurpation upon its powers.

If the States have equal rights in matters concerning the whole, then for one State to set up her judgment against the judgment of the rest, and to insist on executing that judgment by force, is also a manifest usurpation on the rights of other States.

If the Constitution of the United States be a government proper, with authority to pass laws, and to give them a uniform interpretation and execution, then the interposition of a State, to enforce her own construction, and to resist, as to herself, that law which binds the other States, is a violation of the Constitution.

And if that be revolutionary which arrests the legislative, executive, and judicial power of Government, dispenses with existing oaths and obligations of obedience, and elevates another power to supreme dominion, then nullification is revolutionary. Or if that

be revolutionary, the natural tendency and practical effect of which is to break the Union into fragments, to sever all connection among the people of the respective States, and to prostrate this General Government in the dust, then nullification is revolutionary.

Nullification, Sir, is as distinctly revolutionary as secession; but I cannot say that the revolution which it seeks is one of so respectable a character. Secession would, it is true, abandon the Constitution altogether; but, then, it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet reject their authority, as to itself. It would not undertake to reconcile obedience to public authority, with an asserted right of command over that same authority. It would not be in the Government, and above the Government, at the same time. But, however more respectable a mode secession may be, it is not more truly revolutionary than the actual execution of the doctrines of nullification. Both, and each, resist the Constitutional authorities; both, and each, would sever the Union, and subvert the Government.

Mr. President, having detained the Senate so long already, I will not now examine, at length, the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, Sir, will show the nature of this peaceable remedy, and of the lawsuit which South Carolina contemplates.

In the first place, the ordinance declares the law of last July, and all other laws of the United States, laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is, therefore, Sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue, under the laws of the United States. It being declared unlawful to collect these duties by what is considered a fundamental law of the State, an indictment lies, of course, against any one concerned in such collection; and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties;" but every custom-house officer *enforces payment* while he detains the goods, in order to obtain such payment. The ordinance, therefore, reaches every body concerned in the collection of the duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act, commonly called the

replevin law, any person, whose goods are seized or detained by the collector for the payment of duties, may sue out a writ of replevin, and, by virtue of that writ, the goods are to be restored to him. A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which he is bound to employ force, if necessary. He may call out the *posse*, and must do so, if resistance be made. This *posse* may be armed or unarmed. It may come forth with military array, and under the lead of military men. Whatever number of troops may be assembled in Charleston, they may be summoned, with the governor, or commander-in-chief, at their head, to come in aid of the sheriff. It is evident, then, Sir, that the whole military power of the State is to be employed, whenever necessary, in dispossessing the custom-house officers, and in seizing and holding the goods, without paying the duties. This is the second step in the peaceable remedy.

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods in the custody of the collectors. But this unlawful act is to be done, and it is to be done by power. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain the goods till such duties are paid or secured. But force comes, and overpowers the collector, and his assistants, and takes away the goods, leaving the duties unpaid. There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized shall be held against any attempt to retake them, by the same force which seized them.

Having thus dispossessed the officers of the Government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remained to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance declares, *that all judicial proceedings, founded on the revenue laws* (including, of course, proceedings in the courts of the United States), *shall be null and void.* This nullifies the judicial power of the United States. Then comes the test-oath act. This requires all State judges and jurors in the State courts, to swear that they will execute the ordinance, and all acts of the Legislature passed in pursuance thereof. The ordinance declares, that no appeal shall be allowed from the decision of the State courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this Government, are, therefore, these:—

1. A forcible seizure of goods, before duties are paid or secured by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining all judicial proceedings to her own State tribunals; and the compelling of her judges and jurors of these, her own courts, to take an oath, beforehand, that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to *try* it, on its own merits; they only swear to *decide* it as nullification requires.

The character, Sir, of these provisions, defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress, and cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the executive, and *banish* the judicial power of this Government. They authorize and command acts to be done, and done by force, both of numbers and of arms, which, if done, and done by force, are clearly acts of rebellion and treason.

Such, Sir, are the laws of South Carolina; such, Sir, is the peaceable remedy of nullification. Has not nullification reached, Sir, even thus early, that point of direct and forcible resistance to law, to which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced, under the Union, calling for measures which thus threaten to sever and destroy it? What invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, is to justify to the country, to posterity, and to the world, this assault upon the free Constitution of the United States, this great and glorious work of our fathers? At this very moment, Sir, the whole land smiles in peace, and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth, or judging by the opinions of that portion of her people not embarked in those dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign states. One danger, only, creates hesitation; one doubt only exists, to darken the otherwise unclouded brightness of that aspect, which she exhibits to the view, and to the admiration, of the world. Need I say, that that doubt respects the permanency of our Union? and need I say, that that doubt is now caused, more than by any thing else, by these very proceedings of South Carolina? Sir, all Europe is, at this moment, beholding us, and looking for the issue of this con-

troversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, Sir, the cause! Let the world know the cause, which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk of secession.

Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the Constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States, on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a Government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppression, without evils, such as may not only be pretended, but felt and experienced—evils, not slight or temporary, but deep, permanent, and intolerable—a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who see and hear it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinion also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the Constitution; that she has a sovereign right to decide this matter; and that, having so decided, she is authorized to resist their execution, by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, How are they shown to be thus plainly and palpably unconstitutional? Have they no countenance at all in the Constitution itself? Are they quite new in the history of the Government? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world say, what will posterity say, when they learn that similar laws have

existed from the very foundation of the Government; that for thirty years the power was never questioned; and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts, is an *express power*, granted by the Constitution to Congress. It is, also, an *exclusive power;* for the Constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power is unlimited in the terms of the grant, but is attended with two specific restrictions; first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, and being attended with these two restrictions, and no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the Constitution was adopted, includes a right of discriminating, while exercising the power, and of laying some duties heavier, and some lighter, for the sake of encouraging our own domestic products,—what authority is there for giving to the words used in the Constitution a new, narrow, and unusual meaning? All the limitations which the Constitution intended, it has expressed; and what it has left unrestricted, is as much a part of its will, as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the *motive*. How, Sir, can a law be examined on any such ground? How is the *motive* to be ascertained? One House, or one member, may have one motive; the other House, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be Unconstitutional now, and another law, in exactly the same words, perfectly Constitutional next year. Besides, articles may not only be taxed for the purpose of protecting home products, but other articles may be left free, for the same purpose, and with the same motive. A law, therefore, would become unconstitutional from what it omitted, as well as what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of the power, its authority must be admitted until it is repealed. This rule, every where acknowledged, every where admitted, is so universal, and so completely without exception, as that even an allegation of fraud, in the majority of a Legislature, is not allowed as a ground to set aside a law.

But, Sir, is it true, that the motive for these laws is such as is

stated? I think not. The great object of all these laws is, unquestionably, REVENUE. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them. And, as yet, we have collected none too much revenue. The treasury has not been more exhausted for many years than at the present moment. All that South Carolina can say, is, that, in passing the laws which she now undertakes to nullify, *particular articles were taxed, from a regard to the protection of domestic articles, higher than they would have been had no such regard been entertained.* And she insists that, according to the Constitution, no such discrimination can be allowed; that duties should be laid for revenue, and revenue only; and that it is unlawful to have reference, in any case, to protection. In other words, she denies the power of DISCRIMINATION. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the Constitution which she insists has taken place, is simply the exercise of the power of DISCRIMINATION. Now, Sir, is the exercise of this power of discrimination plainly and palpably unconstitutional?

I have already said, the power to lay duties is given by the Constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce, in another distinct provision. Is it clear and palpable, Sir—can any man say it is a case beyond doubt—that, under these two powers, Congress may not justly *discriminate*, in laying duties, *for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions?* Sir, what ought to conclude this question forever, as it would seem to me, is, that the regulation of commerce, and the imposition of duties, are, in all commercial nations, powers avowedly and constantly exercised for this very end. That undeniable truth ought to settle the question; because the Constitution ought to be considered, when it uses well-known language, as using it in its well-known sense. But it is equally undeniable, that it has been, from the very first, fully believed that this power of discrimination was conferred on Congress; and the Constitution was itself recommended, urged upon the people, and enthusiastically insisted on, in some of the States, for that very reason. Not that, at that time, the country was extensively engaged in manufactures, especially of those kinds now existing. But the trades and crafts of the seaport towns, the business of the artisans, and manual laborers; those employments, the work in which supplies so great a portion of the daily wants of all classes,—all these looked to the new Constitution as a source of relief from the severe distress which

followed the war. It would, Sir, be unpardonable, at so late an hour, to go into details on this point; but the truth is as I have stated. The papers of the day, the resolutions of public meetings, the debates in the Conventions, all that we open our eyes upon, in the history of the times, prove it.

The honorable gentleman, Sir, from South Carolina, has referred to two incidents connected with the proceedings of the Convention at Philadelphia, which he thinks are evidence to show that the power of protecting manufactures, by laying duties, and by commercial regulations, was not intended to be given to Congress. The first is, as he says, that a power to protect manufactures was expressly proposed, but not granted. I think, Sir, the gentleman is quite mistaken in relation to this part of the proceedings of the Convention. The whole history of the occurrence to which he alludes is simply this: Towards the conclusion of the Convention, after the provisions of the Constitution had been mainly agreed upon, after the power to lay duties and the power to regulate commerce had both been granted, a long list of propositions was made, and referred to the committee, containing various miscellaneous powers, some or all of which it was thought might be properly vested in Congress. Among these was a power to establish a university; to grant charters of incorporation; to regulate stage-coaches on the post-roads; and also the power to which the gentleman refers, and which is expressed in these words: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures." The committee made no report on this or various other propositions in the same list. But the only inference from this omission is, that neither the committee nor the Convention thought it proper to authorize Congress "*to establish public institutions, rewards and immunities*," for the promotion of manufactures, and other interests. The Convention supposed it had done enough—at any rate, it had done all it intended—when it had given to Congress, in general terms, the power to lay imposts and the power to regulate trade. It is not to be argued, from its omission to give more, that it meant to take back what it had already given. It had given the impost power; it had given the regulation of trade; and it did not deem it necessary to give the further and distinct power of establishing public institutions.

The other fact, Sir, on which the gentleman relies, is the declaration of Mr. Martin to the Legislature of Maryland. The gentleman supposes Mr. Martin to have urged, against the Constitution, that it did not contain the power of protection. But, if the gentleman will look again at what Mr. Martin said, he will find, I think, that what Mr. Martin complained of was, that the Constitution, by its prohibitions on the States, had taken away from the States them-

selves the power of protecting their own manufactures by duties on imports. This is undoubtedly true; but I find no expression of Mr. Martin intimating that the Constitution had not conferred on Congress the same power which it had thus taken from the States.——

But, Sir, let us go to the first Congress; let us look in upon this and the other House, at the first session of their organization.

We see, in both Houses, men distinguished among the framers, friends and advocates of the Constitution. We see in both, those who had drawn, discussed and matured the instrument in the Convention, explained and defended it before the people, and were now elected members of Congress, to put the new Government into motion, and to carry the powers of the Constitution into beneficial execution.

At the head of the Government was WASHINGTON himself, who had been President of the Convention; and in his cabinet were others most thoroughly acquainted with the history of the Constitution, and distinguished for the part taken in its discussion.

If these persons were not acquainted with the meaning of the Constitution, if they did not understand the work of their own hands, who can understand it, or who shall now interpret it to us?

Sir, the volume which records the proceedings and debates of the first session of the House of Representatives lies before me. I open it, and I find that, having provided for the administration of the necessary oaths, the very first measure proposed for consideration is, the laying of imposts; and in the very first committee of the whole into which the House of Representatives ever resolved itself, on this its earliest subject, and in this its very first debate, the duty of so laying the imposts as to encourage manufactures, was advanced, and enlarged upon, by almost every speaker, and doubted or denied by none. The first gentleman who suggests this as the clear duty of Congress, and as an object necessary to be attended to, is Mr. Fitzsimons, of Pennsylvania; the second, Mr. White, of VIRGINIA; the third, Mr. Tucker, of SOUTH CAROLINA.

But the great leader, Sir, on this occasion, was Mr. Madison. Was *he* likely to know the intentions of the Convention and the people? Was *he* likely to understand the Constitution?

At the second sitting of the committee, Mr. Madison explained his own opinions of the duty of Congress, fully and explicitly. I must not detain you, Sir, with more than a few short extracts from these opinions, but they are such as are clear, intelligible, and decisive.

"The States," says he, "that are most advanced in population, and ripe for manufactures, ought to have their particular interest attended to, in some degree. While these States retained the pow-

er of making regulations of trade, they had the power to cherish such institutions. By adopting the present Constitution, they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here."

In another report of the same speech, Mr. Madison is represented as using still stronger language; as saying, that the Constitution, having taken this power away from the States, and conferred it on Congress, it would be a *fraud* on the States and on the people were Congress to refuse to exercise it.

Mr. Madison argues, Sir, on this early and interesting occasion, very justly and liberally, in favor of the general principles of unrestricted commerce. But he argues, also, with equal force and clearness, for certain important exceptions to these general principles.

The first, Sir, respects those manufactures which had been brought forward under encouragement by the State Governments. "It would be cruel," says Mr. Madison, "to neglect them, and to divert their industry into other channels; for it is not possible for the hand of man to shift from one employment to another without being injured by the change." Again: "There may be some manufactures which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fostering hand of Government, will be unable to go on at all. Legislative provision, therefore, will be necessary to collect the proper objects for this purpose; and this will form another exception to my general principle." And again: "The next exception that occurs is one on which great stress is laid by some well-informed men, and this with great plausibility; that each nation should have, within itself, the means of defence, independent of foreign supplies; that, in whatever relates to the operations of war, no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark; and therefore it is proper for legislative attention."

In the same debate, Sir, Mr. Burk, from South Carolina, supported a duty on hemp, for the express purpose of encouraging its growth on the strong lands of South Carolina. "Cotton," he said, "was also in contemplation among them, and, if good seed could be procured, he hoped might succeed." Afterwards, Sir, the cotton seed was obtained, its culture was protected, and it did succeed. Mr. Smith, a very distinguished member from the same State, observed: "It has been said, and justly, that the States which adopted this Constitution expected its administration would be conducted with a favorable hand. The manufacturing States wished the encouragement of manufactures; the maritime

States the encouragement of ship-building; and the agricultural States the encouragement of agriculture."

Sir, I will detain the Senate by reading no more extracts from these debates. I have already shown a majority of the members of SOUTH CAROLINA, in this very first session, acknowledging this power of protection, voting for its exercise, and proposing its extension to their own products. Similar propositions came from Virginia; and, indeed, Sir, in the whole debate, at whatever page you open the volume, you find the power admitted, and you find it applied to the protection of particular articles, or not applied, according to the discretion of Congress. No man denied the power—no man doubted it; the only questions were, in regard to the several articles proposed to be taxed, whether they were fit subjects for protection, and what the amount of that protection ought to be. Will gentlemen, Sir, now answer the argument drawn from these proceedings of the first Congress? Will they undertake to deny that that Congress did act on the avowed principle of protection? Or, if they admit it, will they tell us how those who framed the Constitution fell, thus early, into this great mistake about its meaning? Will they tell us how it should happen that they had so soon forgotten their own sentiments, and their own purposes? I confess I have seen no answer to this argument, nor any respectable attempt to answer it. And, Sir, how did this debate terminate? What law was passed? There it stands, Sir, among the statutes, the second law in the book. It has a *preamble*, and that preamble expressly recites, that the duties which it imposes are laid "for the support of Government, for the discharge of the debts of the United States, and *the encouragement and protection of manufactures.*" Until, Sir, this early legislation, thus coëval with the Constitution itself, thus full and explicit, can be explained away, no man can doubt of the meaning of that instrument.

Mr. President, this power of *discrimination*, thus admitted, avowed, and practised upon, in the first revenue act, has never been denied or doubted, until within a few years past. It was not at all doubted in 1816, when it became necessary to adjust the revenue to a state of peace. On the contrary, the power was then exercised, not without opposition as to its expediency, but, as far as I remember, or have understood, without the slightest opposition founded on any supposed want of Constitutional authority. Certainly, SOUTH CAROLINA did not doubt it. The tariff of 1816 was introduced, carried through, and established, under the lead of South Carolina. Even the *minimum* policy is of South Carolina origin. The honorable gentleman himself supported, and ably supported, the tariff of 1816. He has informed us, Sir, that his speech on that occasion was sudden and off-hand,

he being called up by the request of a friend. I am sure the gentleman so remembers it, and that it was so; but there is, nevertheless, much method, arrangement, and clear exposition, in that extempore speech. It is very able, very, very much to the point, and very decisive. And in another speech, delivered two months earlier, on the proposition to repeal the internal taxes, the honorable gentleman had touched the same subject, and had declared, "*that a certain encouragement ought to be extended, at least to our woollen and cotton manufactures.*" I do not quote these speeches, Sir, for the purpose of showing that the honorable gentleman has changed his opinion: my object is other, and higher. I do it for the sake of saying, that that cannot be so plainly and palpably unconstitutional as to warrant resistance to law, nullification, and revolution, which the honorable gentleman and his friends have heretofore agreed to, and acted upon, without doubt, and without hesitation. Sir, it is no answer to say, that the tariff of 1816 was a revenue bill. So are they all revenue bills. The point is, and the truth is, that the tariff of 1816, like the rest, *did discriminate:* it did distinguish one article from another: it did lay duties for protection. Look to the case of coarse cottons, under the minimum calculation: the duty on these was sixty to eighty per cent. Something beside revenue, certainly, was intended in this; and, in fact, the law cut up our whole commerce with India in that article.

It is, Sir, only within a few years that Carolina has denied the Constitutionality of these protective laws. The gentleman himself has narrated to us the true history of her proceedings on this point. He says that, after the passing of the law of 1828, despairing then of being able to abolish the system of protection, political men went forth among the people, and set up the doctrine that the system was unconstitutional. "*And the people,*" says the honorable gentleman, "*received the doctrine.*" This, I believe, is true, Sir. The people did then receive the doctrine: they had never entertained it before. Down to that period, the Constitutionality of these laws had been no more doubted in South Carolina than elsewhere. And I suspect it is true, Sir, and I deem it a great misfortune, that, to the present moment, a great portion of the people of the State have never yet seen more than one side of the argument. I believe that thousands of honest men are involved in scenes now passing, led away by one-sided views of the question, and following their leaders by the impulses of an unlimited confidence. Depend upon it, Sir, if we can avoid the shock of arms, a day for reconsideration and reflection will come; truth and reason will act with their accustomed force, and the public opinion of South Carolina will be restored to its usual Constitutional and patriotic tone.

But, Sir, I hold South Carolina to her ancient, her cool, her uninfluenced, her deliberate opinions. I hold her to her own admissions, nay, to her own claims and pretensions, in 1789, in the first Congress, and to her acknowledgments and avowed sentiments through a long series of succeeding years. I hold her to the principles on which she led Congress to act in 1816; or, if she have changed her own opinions, I claim some respect for those who still retain the same opinions. I say she is precluded from asserting that doctrines, which she has herself so long and so ably sustained, are plain, palpable, and dangerous violations of the Constitution.

Mr. President, if the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skilful "architects of ruin," the most effectual extinguishers of high-raised expectation, the greatest blasters of human hopes, which any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative government had failed. They would send forth sounds, at the hearing of which the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes, of those who now feed their inherent love of liberty on the success of the American example, would turn away from beholding our dismemberment, and find no place on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion, and revolution, would be celebrated the funeral rites of Constitutional and republican liberty.

But, Sir, if the Government do its duty, if it act with firmness and with moderation, these opinions cannot prevail. Be assured, Sir, be assured, that, among the political sentiments of this people, the love of union is still uppermost. They will stand fast by the Constitution, and by those who defend it. I rely on no temporary expedients, on no political combination; but I rely on the true American feeling, the genuine patriotism of the people, and the imperative decision of the public voice. Disorder and confusion, indeed, may arise; scenes of commotion and contest are threatened, and perhaps may come. With my whole heart, I pray for the continuance of the domestic peace and quiet of the country. I desire, most ardently, the restoration of affection and harmony to all its parts. I desire that every citizen of the whole country may look to this Government with no other sentiments but those of grateful respect and attachment. But I cannot yield, even to kind feelings, the cause of the Constitution, the true glory of the country, and the great trust which we hold in our hands for succeeding ages. If the Constitution cannot be maintained without

meeting these scenes of commotion and contest, however unwelcome, they must come. We cannot, we must not, we dare not, omit to do that which, in our judgment, the safety of the Union requires. Not regardless of consequences, we must yet meet consequences; seeing the hazards which surround the discharge of public duty, it must yet be discharged. For myself, Sir, I shun no responsibility justly devolving on me, here or elsewhere, in attempting to maintain the cause. I am tied to it by indissoluble bands of affection and duty, and I shall cheerfully partake in its fortunes and its fate. I am ready to perform my own appropriate part, whenever and wherever the occasion may call on me, and to take my chance among those upon whom blows may fall first and fall thickest. I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed, or impaired; and even should I see it fall, I will still, with a voice, feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the PEOPLE to come to its rescue.

REMARKS

MADE TO THE CITIZENS OF BUFFALO, JUNE, 1833.

In the summer of 1833, Mr. Webster made a visit to Ohio. On his way thither, while at Buffalo, New York, he was invited by the citizens of that place to attend a public dinner, which his engagements, and the necessity of an early departure, compelled him to decline. He accepted, however, an invitation to be present at the launching of a steam-boat, to which the proprietors had given the name of DANIEL WEBSTER, and, in reply to an address of one of them, made the following remarks:—

I AVAIL myself gladly of this opportunity of paying my acknowledgments to the proprietors of this vessel, for the honor conferred upon me by allowing her to bear my name. Such a token of regard, had it proceeded from my immediate friends and neighbors, could not but have excited feelings of grateful respect; and it is more calculated to waken these sentiments, when coming from gentlemen of character and worth, with whom I have not had the pleasure of personal acquaintance, and whose motive, I may flatter myself, is to be found in an indulgent opinion towards well-intentioned services in a public situation.

It gives me great pleasure, also, on the occasion of so large an assembly of the city of Buffalo, to express to them my thanks for the kindness and hospitality with which I have been received in this young, but growing and interesting city. The launching of another vessel on these inland seas, is but a fresh occasion of congratulation on the rapid growth, the great active prosperity, and the exciting future prospects of this city. Eight years ago, fellow-citizens, I enjoyed the pleasure of a short visit to this place. There was then but one steam-boat on Lake Erie: it made its passage once in ten or fifteen days only; and I remember that persons in my own vicinity, intending to travel to the far West by that conveyance, wrote to friends to learn the day of the commencement of the contemplated voyage. I understand that there are now eighteen steam-boats plying on the lake, all finding full employment; and that a boat leaves Buffalo twice every day for Detroit, and the ports in Ohio. The population of Buffalo, now four times as large as it was then, has kept pace with the augmenta-

tion of its commercial business. This fast progress is a sample, but certainly is not to be regarded as the measure, of the future advancement of the city. So many circumstances incline to favor that advancement, that it is difficult to estimate the rate by which it may hereafter proceed. It will probably not be long before the products of the fisheries of the East, the importations of the Atlantic frontier, the productions, mineral and vegetable, of all the North-western States, and the sugars of Louisiana, will find their way hither by inland water communication. Much of this, indeed, has already taken place, and is of daily occurrence. Many, who remember the competition between Buffalo and Black Rock, for the site of the city, will doubtless live to see the city spread over both. This singular prosperity, Fellow-citizens, so gratifying for the present, and accompanied with such high hopes for the future, you owe to your own industry and enterprise, your favored position, and to the flourishing condition of the internal commerce of the country; and the blessings and the riches of that internal commerce, be it ever remembered, are the fruits of a united government, and one general common commercial system.

It is not only the trade of New York, of Ohio, of New England, of Indiana, or Michigan, but it is a part of the great aggregate of the trade of all the States, in which you so largely and so successfully partake. Who does not see that the advantages here enjoyed spring from a General Government and a uniform code? Who does not see, that, if these States had remained severed, and each had existed with a system of imposts and commercial regulations of its own, all excluding and repelling, rather than inviting the intercourse of the rest, the place could hardly hope to have been more than a respectable frontier post? Or can any man look to the one and to the other side of this beautiful lake and river, and not see, in their different conditions, the plain and manifest results of different political institutions and commercial regulations?

It would be pleasant, Fellow-citizens, to dwell on these topics, so worthy at all times of regard and reflection; and especially so fit to engage attention at the present moment; but this is not the proper moment to pursue them; and, tendering to you once more my thanks and good wishes, I take my leave of you by expressing my hope for the continued success of that great interest, so essential to your happiness—THE COMMERCE OF THE LAKES, A NEW-DISCOVERED SOURCE OF NATIONAL PROSPERITY, AND A NEW BOND OF NATIONAL UNION.

An address was also made to Mr. Webster in behalf of the mechanics and manufacturers of Buffalo, to which he returned the following reply:

I NEED hardly say, Mr. Chairman and Gentlemen, that it gives me much satisfaction to receive this mark of approbation of my public conduct, from the Manufacturers and Mechanics of Buffalo. Those who are the most immediately affected by any measures of the Government, are naturally the earliest to perceive their operation, and to foresee their final results. Allow me to say, Gentlemen, that the confidence you express in my continuance in the general course which I have pursued, must rest, and may rest safely, I trust, on the history of the past. Desiring always to avoid extremes, and to observe a prudent moderation in regard to the protective system, I yet hold steadiness and perseverance, in maintaining what has been established, to be essential to the public prosperity. Nothing can be worse than that what concerns the daily labor and the daily bread of whole classes of the people, should be subject to frequent and violent changes. It were far better not to move at all than to move forward and then fall back again.

My sentiments, Gentlemen, on the tariff question, are generally known. In my opinion, a just and a leading object in the whole system is the encouragement and protection of American manual labor. I confess, that every day's experience convinces me more and more of the high propriety of regarding this object. Our Government is made for all, not for a few. Its object is to promote the greatest good of the whole; and this ought to be kept constantly in view in its administration. The far greater number of those who maintain the Government belong to what may be called the industrious or productive classes of the community. With us labor is not depressed, ignorant and unintelligent. On the contrary, it is active, spirited, enterprising, seeking its own rewards, and laying up for its own competence and its own support. The motive to labor is the great stimulus to our whole society; and no system is wise or just which does not afford this stimulus, as far as it may. The protection of American labor against the injurious competition of foreign labor, so far, at least, as respects general handicraft productions, is known historically to have been one end designed to be obtained by establishing the Constitution; and this object, and the Constitutional power to accomplish it, ought never to be surrendered or compromised in any degree.

Our political institutions, Gentlemen, place power in the hands of all the people; and, to make the exercise of this power, in such hands, salutary, it is indispensable that all the people should enjoy, first, the means of education, and, second, the reasonable

certainty of procuring a competent livelihood by industry and labor. These institutions are neither designed for, nor suited to, a nation of ignorant paupers. To disseminate knowledge, then, universally, and to secure to labor and industry their just rewards, is the duty both of the General and State Governments, each in the exercise of its appropriate powers. To be free, the people must be intelligently free; to be substantially independent, they must be able to secure themselves against want, by sobriety and industry; to be safe depositories of political power, they must be able to comprehend and understand the general interests of the community, and must have a stake, themselves, in the welfare of that community. The interest of labor, therefore, has an importance, in our system, beyond what belongs to it as a mere question of political economy. It is connected with our forms of government, and our whole social system. The activity and prosperity which at present prevail among us, as every one must notice, are produced by the excitement of compensating prices to labor; and it is fervently to be hoped that no unpropitious circumstances, and no unwise policy, may counteract this efficient cause of general competency and public happiness.

I pray you, Mr. Chairman and Gentlemen, to receive personally my thanks for the manner in which you have communicated the sentiments of the meeting which you represent.

ADDRESS

TO THE CITIZENS OF PITTSBURGH, JULY 9, 1833.

Mr. Webster arrived at Pittsburgh on the evening of the fourth of July, accompanied by a numerous cavalcade of citizens. He was immediately waited on by a committee, with the following

LETTER.

To the Hon. Daniel Webster.

Pittsburgh, July 4, 1833.

Sir: At a meeting of the citizens of Pittsburgh, the undersigned were appointed a committee to convey to you a cordial welcome and an assurance of the exalted sense which is entertained of your character and public services.

The feeling is one which pervades our whole community, scorning any narrower discrimination than that of lovers of our sacred Union, and admirers of the highest moral and intellectual qualities, steadily and triumphantly devoted to the noblest purposes.

The resolutions, under which the committee act, indicate no particular form of tribute, but contain only an earnest injunction to seek the best mode by which to manifest the universal recognition of your claim to the admiration and gratitude of every American citizen. It will be deeply mortifying to us, if our execution of this trust shall fail adequately to represent the enthusiastic feeling in which it had its origin.

The committee will have the honor of waiting on you in person at such an hour as you may please to designate, with a view to ascertain how they can best fulfil the purposes of their appointment. It will be very gratifying if your convenience will permit you to partake of a Pub lic Dinner at any period during your stay.

We have the honor to be, with the highest respect,

JAMES ROSS,
BENJAMIN BAKEWELL,
CHARLES AVERY,
WILLIAM WADE,
SAMUEL PETTIGREW,
GEORGE MILTENBERGER,
ISAAC LIGHTNER,
SYLVANUS LATHROP,
JOHN ARTHURS,
ALEX. BRACKENRIDGE,
WILLIAM ROBINSON, Jun.
GEORGE A. COOK,
W. W. FETTERMAN,
SAMUEL ROSEBURGH,
WILLIAM MACKEY,
JAMES JOHNSTON,
RICHARD BIDDLE,
SAMUEL F. DARLINGTON,
MICHAEL TIERNAN,
SAMUEL FAHNESTOCK,
THOMAS BAKEWELL,
WALTER H. LOWRIE,
WILLIAM W. IRWIN,
ROBERT S. CASSAT,
CORNELIUS DARRAGH,
BENJAMIN DARLINGTON,
NEVILLE B. CRAIG,
WILSON McCANDLESS,
OWEN ASHTON,
CHARLES SHALER,
THOMAS SCOTT,
CHARLES H. ISRAEL.

REPLY.

Pittsburgh, July 5th, 1833.

GENTLEMEN: I hardly know how to express my thanks for the hospitable and cordial welcome with which the citizens of Pittsburgh are disposed to receive me on this my first visit to their city. The terms in which you express their sentiments, in your letter of yesterday, far transcend all merits of mine, and can have their origin only in spontaneous kindness and good feeling. I tender to you, Gentlemen, and to the meeting which you represent, my warmest acknowledgments. I rejoice sincerely to find the health of the city so satisfactory; and I reciprocate with all the people of Pittsburgh the most sincere and hearty good wishes for their prosperity and happiness. Long may it continue what it now is— an abode of comfort and hospitality, a refuge for the well-deserving from all nations, a model of industry, and an honor to the country.

It is my purpose, Gentlemen, to stay a day or two among you, to see such of your manufactories and public institutions, as it may be in my power to visit. I most respectfully pray leave to decline a public dinner, but shall have great pleasure in meeting such of your fellow-citizens as may desire it, in the most friendly and unceremonious manner.

I am, Gentlemen, with very true regard, yours,

DANIEL WEBSTER.

To Hon. JAMES ROSS and others, Gentlemen of the Committee.

In deference to Mr. Webster's wishes, the idea of a formal dinner was abandoned; but, as there was a general desire for some collective expression of public esteem, it was decided to invite him to meet the citizens at a spacious grove, at 4 o'clock, on the afternoon of the eighth. Refreshments of a plain kind were spread around, under the charge of the committee; but the tables could serve only as a *nucleus* to the multitude. His honor, the Mayor, called the company to order, and addressed them as follows:—

I HAVE to ask, Gentlemen, your attention for a few moments.

We are met here to mark our sense of the extraordinary merits of a distinguished statesman and public benefactor. At his particular request, every thing like parade or ceremonial has been waived; and, in consequence, he has been the better enabled to receive, and to reciprocate, the hearty and spontaneous expression of your good will. I am now desired to attempt, in your name, to give utterance to the universal feeling around me.

Gentlemen, we are this day citizens of the *United* States. The Union is safe. Not a star has fallen from that proud banner around which our affections have so long rallied. And when, with this delightful assurance, we cast our eyes back upon the eventful history of the last year,—when we recall the gloomy apprehensions, and perhaps hopeless despondency, which came over us,—who, Gentlemen, can learn, without a glow of enthusiasm, that the great champion of the Constitution—that DANIEL WEBSTER—is now in the midst of us. To his mighty intellect, the nation, with one voice, confided its cause—of life or death. Shall there be withheld from the triumphant advocate of the nation a nation's gratitude?

Ours, Gentlemen, is a government not of force, but of opinion. The *reason* of the people must be satisfied before a call to arms. The mass of our peaceful and conscientious citizens cannot, and ought not,—except in a clear case,—to be urged to abandon the implements of industry for the sword and the bayonet. This consideration it is that imparts to intellectual preëminence in the service of truth, its incalculable value. And hence the preciousness of that admirable and unanswerable exposition, which has put down, once and forever, the artful sophisms of nullification.

If, Gentlemen, we turn to other portions of the public history of our distinguished guest, it will be found, that his claims to grateful acknowledgment are not less imposing. The cause of Domestic Industry, of Internal Improvement, of Education, of whatever, in short, is calculated to render us a prosperous, united, and happy people, has found in him a watchful and efficient advocate. Nor is it the least of his merits, that, to our gallant *Navy*, Mr. Webster has been an early, far-sighted, and persevering friend. Our interior position cannot render us cold and unobservant on this point, whilst the victory of Perry yet supplies to us a proud and inspiring anniversary. And such is the wonderful chain of mutual dependence which binds our Union, that, in the remotest corner of the West, the exchangeable value of every product must depend on the security with which the ocean can be traversed.

Gentlemen, I have detained you too long; yet I will add one word. I do but echo the language of the throngs that have crowded round Mr. Webster, in declaring, that the frank and manly simplicity of his character and manners has created a feeling of personal regard which no mere intellectual ascendancy could have secured. We approached him with admiration for the achievements of his public career—never supposing, for a moment, that our hearts could have aught to do in the matter; we shall part as from a valued friend, the recollections of whose virtues cannot pass away.

Mr. Webster then addressed the assembly as follows:—

Mr. Mayor and Gentlemen: I rise, Fellow-citizens, with unaffected sensibility, to give you my thanks for the hospitable manner in which you have been kind enough to receive me, on this my first visit to Pittsburgh, and to make all due acknowledgments to your worthy Mayor, for the sentiments which he has now seen fit to express.

Although, Gentlemen, it has been my fortune to be personally acquainted with very few of you, I feel, at this moment, that we are not strangers. We are fellow-countrymen, fellow-citizens, bound together by a thousand ties of interest, of sympathy, of duty; united, I hope I may add, by bonds of mutual regard. We are bound together, for good or for evil, in our great political interests. I know that I am addressing Americans, every one of whom has a true American heart in his bosom; and I feel that I have also an American heart in *my* bosom. I address you, then, Gentlemen, with the same fervent good wishes for your happiness, the same brotherly affection, and the same tokens of regard and esteem, as if, instead of being upon the borders of the Ohio,

I stood by the Connecticut or the Merrimac. As citizens, countrymen, and neighbors, I give you my hearty good wishes, and thank you, over and over again, for your abundant hospitality.

Gentlemen, the Mayor has been pleased to advert, in terms beyond all expectation or merit of my own, to my services in defence of the glorious Constitution under which we live, and which makes you and me all that we are, and all that we desire to be. He has done much more than justice to my efforts; but he has not overstated the importance of that occasion in which those efforts were made.

Gentlemen, it is but a few short months since dark and portentous clouds *did* hang over our heavens, and *did* shut out, as it were, the sun in his glory. A new and perilous crisis was upon us. Dangers, novel in their character, and fearful in their aspect, menaced both the peace of the country and the integrity of the Constitution. For forty years our Government had gone on, I need hardly say how prosperously and gloriously, meeting, it is true, with occasional dissatisfaction, and, in one or two instances, with ill-concerted resistance to law. Through all these trials it had successfully passed. But now a time had come when the authority of law was opposed by authority of law,—when the power of the General Government was resisted by the arms of State Government,—and when organized military force, under all the sanctions of State Conventions, and State laws, was ready to resist the collection of the public revenues, and hurl defiance at the statutes of Congress.

Gentlemen, this was an alarming moment. In common with all good citizens, I felt it to be such. A general anxiety pervaded the breasts of all, who were at home, partaking in the prosperity, honor and happiness which the country had enjoyed. And how was it abroad? Why, Gentlemen, every intelligent friend of human liberty, throughout the world, looked, with amazement, at the spectacle which we exhibited. In a day of unparalleled prosperity, after a half century's most happy experience of the blessings of our Union,—when we had already become the *wonder* of all the *liberal* part of the world, and the envy of the illiberal,—when the Constitution had so amply falsified the predictions of its enemies, and more than fulfilled all the hopes of its friends,—in a time of peace, with an overflowing treasury,—when both the population and the improvement of the country had outrun the most sanguine anticipations;—it was at this moment, that we showed ourselves to the whole civilized world, as being, apparently, on the eve of disunion and anarchy,—at the very point of dissolving, once and forever, that Union which had made us so prosperous and so great. It was at that moment that those

appeared among us who seemed ready to break up the National Constitution, and to scatter the twenty-four States into twenty-four unconnected communities.

Gentlemen, the President of the United States was, as it seemed to me, at this eventful crisis, true to his duty. He comprehended and understood the case, and met it as it was proper to meet it. While I am as willing as others to admit that the President has, on other occasions, rendered important services to the country, and especially on that occasion which has given him so much military renown, I yet think the ability and decision with which he resisted the disorganizing doctrines of nullification, create a claim, than which he has none higher, to the gratitude of the country, and the respect of posterity. The issuing of the Proclamation of the 10th December inspired me, I confess, with new hopes for the duration of the republic. I regarded it as just, patriotic, able, and imperiously demanded by the condition of the country. I would not be understood to speak of particular clauses and phrases in the Proclamation; but its great and leading doctrines I regard as the true and only true doctrines of the Constitution. They constitute the sole ground on which dismemberment can be resisted. Nothing else, in my opinion, can hold us together. While these opinions are maintained, the Union will last; when they shall be generally rejected and abandoned, that Union will be at the mercy of a temporary majority in any one of the States.

I speak, Gentlemen, on this subject, without reserve. I have not intended heretofore, and elsewhere, and do not now intend here, to sink my commendation of the conduct of the President, in regard to the Proclamation, and the subsequent measures. I have differed with the President, as all know, who know any thing of so humble an individual as myself, on many questions of great general interest and importance. I differ with him in respect to the Constitutional power of internal improvements; I differ with him in respect to the re-chartering of the Bank, and I dissent, especially, from the grounds and reasons on which he refused his assent to the bill passed by Congress for that purpose; I differ with him, also, probably, in the degree of protection which ought to be afforded to our agriculture and manufactures, and in the manner in which it may be proper to dispose of the public lands. But all these differences afforded, in my judgment, not the slightest reason for opposing him, in a measure of paramount importance, and at a moment of great public exigency. I sought to take counsel of nothing but patriotism, to feel no impulse but that of duty, and to yield not a lame and hesitating, but a vigorous and cordial support to measures which, in my conscience, I believed essential to the preservation of the Constitu-

tion. It is true, doubtless, that if myself and others had surrendered ourselves to a spirit of opposition, we might have embarrassed, and, probably, defeated the measures of the Administration. But, in so doing, we should, in my opinion, have been false to our own characters, false to our duty, and false to our country. It gives me the highest satisfaction to know, that, in regard to this subject, the general voice of the country does not disapprove my conduct.

I ought to add, Gentlemen, that, in whatever I may have done, or attempted, in this respect, I only share a common merit. A vast majority of both Houses of Congress cordially concurred in the measures. Your own great State was seen in her just position on that occasion, and your own immediate Representatives were found among the most zealous and efficient friends of the Union.

Gentlemen, I hope that the result of that experiment may prove salutary, in its consequences, to our Government, and to the interests of the community. I hope that the signal and decisive manifestation of public opinion, which has, for the time at least, put down the despotism of nullification, may produce permanent good effects. I know full well that popular topics may be urged against the Proclamation. I know it may be said, in regard to the laws of the last session, that if such laws are to be maintained, Congress may pass what laws they please, and enforce them. But may it not be said, on the other side, that, if a State may nullify one law, she may nullify any other law also. and, therefore, that the *principle* strikes at the whole power of Congress? And when it is said, that, if the power of State interposition be denied, Congress may pass and enforce what laws it pleases, is it meant to be contended or insisted, that the Constitution has placed Congress under the guardianship and control of the State Legislatures? Those who argue against the power of Congress, from the possibility of its abuse, entirely forget, that, if the power of State interposition be allowed, that power may be abused also; but, what is more material, they forget the will of the people, as they have plainly expressed it in the Constitution; they forget that *the people have chosen* to give Congress a power of legislation, independent of State control; they forget that the Confederation has ceased, and that a *Constitution*—a *Government*—has taken its place; they forget that this Government is a popular Government,—that members of Congress are but agents and servants of the people, chosen for short periods, periodically removable by the people, as much subservient, as much dependent, as willingly obedient, as any other of their agents and servants. This dependence on the people is the security that they will not act wrong. This is the security which the people

themselves have chosen to rely on, in addition to the guards contained in the Constitution itself.

I am quite aware, Gentlemen, that it is easy for those who oppose measures deemed necessary for the execution of the laws, to raise the cry of *consolidation*. It is easy to make charges, and to bring general accusations. It is easy to call names. For one, I repel all such imputations. I am no *consolidationist*. I disclaim the character, altogether, and, instead of repeating this general and vague charge, will be obliged to any one to show how the Proclamation, or the late law of Congress, or, indeed, any measure to which I ever gave my support, tends, in the slightest degree, to consolidation. By consolidation is understood a grasping at power not Constitutionally conferred. But the Proclamation asserted no new power. It only asserted the right, in the Government, to carry into effect, in the form of law, power which it had exercised for forty years. I should oppose any grasping at new powers, by Congress, as zealously as the most zealous. I wish to preserve the Constitution as it is, without addition, and without diminution, by one jot or tittle. For the same reason that I would not grasp at powers not given, I would not surrender nor abandon powers which are given. Those who have placed me in a public station, placed me there, not to alter the Constitution, but to administer it. The power of change the people have retained to themselves. *They* can alter, they can modify, they can change the Constitution entirely, if they see fit. *They* can tread it under foot, and make another, or make no other; but while it remains unaltered by the authority of the people, it is our power of attorney—our letter of credit—our credentials; and we are to follow it, and obey its injunctions, and maintain its just powers, to the best of our abilities. I repeat, that, for one, I seek to preserve to the Constitution those precise powers with which the people have clothed it. While no encroachment is to be made on the reserved rights of the people or of the States, while nothing is to be usurped, it is equally clear that we are not at liberty to surrender, either in fact or form, any power or principle which the Constitution does actually contain.

And what is the ground for this cry of consolidation? I maintain that the measures recommended by the President, and adopted by Congress, were measures of self-defence. Is it consolidation to execute laws? Is it consolidation to resist the force that is threatening to upturn our Government? Is it consolidation to protect officers, in the discharge of their duty, from courts and juries previously sworn to decide against them?

Gentlemen, I take occasion to remark, that, after much reflection upon the subject, and after all that has been said about the encroachment of our General Government upon the rights of the

States, I know of no one power, exercised by the General Government, which was not admitted by the immediate friends and foes of the Constitution to have been conferred upon it by the people when that instrument was adopted. I know of no one power, now claimed or exercised, which every body did not agree, in 1789, was conferred on the General Government. On the contrary, there are several powers, and those, too, among the most important for the interests of the people, which were then universally allowed to be conferred by the Constitution of the United States, but which are now ingeniously doubted, or clamorously denied.

Gentlemen, upon this point I shall detain you with no further remarks. It does, however, give me the most sincere pleasure to say, that, in a long visit through the State west of you, and in the great State north of you, as well as in a tour of some days' duration in the respectable State to which you belong, I find but one sentiment, in regard to the conduct of the Government, upon this subject. I know that those who have seen fit to intrust to me, in part, their interests in Congress, approve of the measures recommended by the President. We see that he has taken occasion, during the recess of Congress, to visit that part of the country; and we know how he has been received. No where have hands been extended with more sincerity of friendship; and for one, Gentlemen, I take occasion to say, that, having heard of his return to the seat of government, with health rather debilitated, it is among my most earnest prayers that Providence may spare his life, and that he may go through with his administration, and come out with as much success and glory as any of his predecessors.

Your worthy Chief Magistrate has been kind enough, Gentlemen, to express sentiments favorable to myself, as a friend of domestic industry. Domestic industry! How much of national power and opulence, how much of individual comfort and respectability, that phrase implies! And with what force does it strike us, as we are here, at the confluence of the two rivers whose united currents constitute the Ohio, and in the midst of one of the most flourishing and distinguished manufacturing cities in the Union! Many thousand miles of inland navigation, running through a new and rapidly-improving country, stretch away below us. Internal communications, completed or in progress, connect the city with the Atlantic and the lakes. A hundred steam-engines are in daily operation, and nature has supplied the fuel which feeds their incessant flames, on the spot itself, in exhaustless abundance. Standing here, Gentlemen, in the midst of such a population, and with such a scene around us, how great is the import of these words, "domestic industry"!

Next to the preservation of the Government itself, there can hardly be a more vital question, to such a community as this, than that which regards their own employments, and the preservation

of that policy, which the Government has adopted and cherished, for the encouragement and protection of those employments. This is not, in a society like this, a matter which affects the interest of a particular class, but one which affects the interest of all classes It runs through the whole chain of human occupation and em ployment, and touches the means of living and the comfort of all.

Gentlemen, those of you who may have turned your attention to the subject know, that, in the quarter of the country with which I am more immediately connected, the people were not early or eager to urge the Government to carry the protecting policy to the height which it has reached. Candor obliges me to remind you, that, when the act of 1824 was passed, neither he who now addresses you, nor those with whom he usually acted on such subjects, were ready or willing to take the step which that act proposed. They doubted its *expediency*. It passed, however, by the great and overwhelming influence of the central states, New York, Pennsylvania, and Ohio. New England acquiesced in it. She conformed to it, as the settled policy of the country, and gave to her capital and her labor a corresponding direction. She has now become vitally interested in the preservation of the system. Her prosperity is identified, not perhaps with any particular *degree* of protection, but with the preservation of the principle; and she is not likely to consent to yield the principle, under any circumstances whatever. And who would dare to yield it? Who, standing here, and looking round on this community and its interests, would be bold enough to touch the spring, which moves so much industry, and produces so much happiness? Who would shut up the mouths of these vast coal pits? Who stay the cargoes of manufactured goods, now floating down a river, one of the noblest in the world, and stretching through territories almost boundless in extent; and unequalled in fertility? Who would quench the fires of so many steam-engines, or stay the operations of so much well-employed labor? Gentlemen, I cannot conceive how any subversion of that policy, which has hitherto been pursued, can take place, without great public embarrassment, and great private distress.

I have said, that I am in favor of protecting American manual labor; and, after the best reflection I can give the subject, and from the lights which I can derive from the experience of ourselves and others, I have come to the conclusion that such protection is just and proper; and that to leave American labor to sustain a competition with that of the over-peopled countries of Europe, would lead to a state of things to which the people could never submit. This is the great reason why I am for maintaining what has been established. I see at home, I see here, I see wherever I go, that the stimulus, which has excited the existing activity, and is producing the existing prosperity of the country, is

nothing else than the stimulus held out to labor by compensating prices. I think this effect is visible every where, from Penobscot to New Orleans, and manifest in the condition and circumstances of the great body of the people; for nine tenths of the whole people belong to the laborious, industrious, and productive classes; and on these classes the stimulus acts. We perceive that the price of labor is high, and we know that the means of living are low; and these two truths speak volumes in favor of the general prosperity of the country. I am aware, as has been said already, that this high price of labor results partly from the favorable condition of the country. Labor was high, comparatively speaking, before the act of 1824 passed; but that fact affords no reason, in my judgment, for endangering its security and sacrificing its hopes, by overthrowing what has since been established for its protection.

Let us look, Gentlemen, to the condition of other countries, and inquire a little into the causes, which, in some of them, produce poverty and distress, the lamentations of which reach our own shores. I see around me many whom I know to be emigrants from other countries. Why are they here? Why is the native of Ireland among us? Why has he abandoned scenes as dear to him as these hills and these rivers are to you? Is there any other cause than this, that the burden of taxation on the one hand, and the low reward of labor on the other, left him without the means of a comfortable subsistence, or the power of providing for those who were dependent upon him? Was it not on this account that he left his own land, and sought an asylum in a country of free laws, of comparative exemption from taxation, of boundless extent, and in which the means of living are cheap, and the prices of labor just and adequate? And do not these remarks apply, with more or less accuracy, to every other part of Europe? Is it not true, that sobriety, and industry, and good character, can do more for a man here than in any other part of the world? And is not this truth, which is so obvious that none can deny it, founded in this plain reason, that labor, in this country, earns a better reward than any where else, and so gives more comfort, more individual independence, and more elevation of character? Whatever else may benefit particular portions of society; whatever else may assist capital; whatever else may favor sharp-sighted commercial enterprise, professional skill, or extraordinary individual sagacity or good fortune,—be assured, Gentlemen, that nothing can advance the mass of society, in prosperity and happiness, nothing can uphold the substantial interest, and steadily improve the general condition and character of the whole, but this one thing, *compensating rewards to labor* The fortunate situation of our country tends strongly, of itself, to produce this result; the Government has adopted the policy of coöperating with this natural tendency of things: it has

encouraged and fostered labor and industry, by a system of discriminating duties; and the result of these combined causes may be seen in the present circumstances of the country.

Gentlemen, there are important considerations of another kind, connected with this subject. Our Government is popular; popular in its foundation, and popular in its exercise. The actual character of the Government can never be better than the general moral and intellectual character of the community. It would be the wildest of human imaginations, to expect a poor, vicious and ignorant people to maintain a good popular government. Education and knowledge, which, as is obvious, can be generally attained by the people, only where there are adequate rewards to labor and industry, and some share in the public interest, some stake in community, would seem indispensably necessary in those who have the power of appointing all public agents, passing all laws, and even of making and unmaking constitutions at their pleasure. Hence the truth of the trite maxim, that knowledge and virtue are the only foundation of republics; but it is to be added, and to be always remembered, that there never was, and never can be, an intelligent and virtuous people, who, at the same time, are a poor and idle people, badly employed and badly paid. Who would be safe, in any community, where political power is in the hands of the many, and property in the hands of the few? Indeed, such an unnatural state of things could no where long exist.

It certainly appears to me, Gentlemen, to be quite evident, at this time, and in the present condition of the world, that it is necessary to protect the industry of this country against the pauper labor of England, and other parts of Europe. An American citizen, who has children to maintain, and children to *educate*, has an unequal chance against the pauper of England, whose children are not to be educated, and are probably already on the parish; and who himself is half fed and clothed by his own labor, and half from the poor-rates, and very badly fed and clothed after all. As I have already said, the condition of our country, of itself, without the aid of Government, does much to favor American manual labor; and it is a question of policy and justice, at all times, what and how much Government shall do in aid of natural advantages. In regard to some branches of industry, the natural advantages are less considerable than in regard to others; and those, therefore, more imperiously demand the regard of Government. Such are the occupations, generally speaking, of the numerous classes of citizens in cities and large towns; the workers in leather, brass, tin, iron, &c.; and such, too, under most circumstances, are the employments connected with ship-building. Our own experience has been a powerful, and ought to be a convincing and long-remembered preacher, on this point. From the close of the war of

the revolution, there came on a period of depression and distress, on the Atlantic coast, such as the people had hardly felt during the sharpest crisis of the war itself. Ship-owners, ship-builders, mechanics, artisans, all were destitute of employment, and some of them destitute of bread. British ships came freely, and British goods came plentifully; while, to American ships, and American products, there was neither protection on the one side, nor the equivalent of reciprocal free trade on the other. The cheaper labor of England supplied the inhabitants of the Atlantic shores with every thing. Ready-made clothes, among the rest, from the crown of the head to the soles of the feet, were for sale in every city. All these things came free from any general system of imposts. Some of the States attempted to establish their own partial systems, but they failed. Voluntary association was resorted to, but that failed also. A memorable instance of this mode of attempting protection occurred in Boston. The ship-owners, seeing that British vessels came and went freely, while their own ships were rotting at the wharves, raised a committee to address the people, recommending to them, in the strongest manner, not to buy or use any articles imported in British ships. The chairman of this committee was no less distinguished a character than the immortal John Hancock. The committee performed its duty powerfully and eloquently. It set forth strong and persuasive reasons, why the people should not buy or use British goods, imported in British ships. The ship-owners and merchants having thus proceeded, the mechanics of Boston took up the subject also. They answered the merchants' committee. They agreed with them, cordially, that British goods, imported in British vessels, ought not to be bought, or consumed; but then they took the liberty of going a step farther, and of insisting, *that such goods ought not to be bought or consumed at all.* (Great applause.) "For," said they, "Mr. Hancock, what difference does it make to us, whether hats, shoes, boots, shirts, handkerchiefs, tin-ware, brass-ware, cutlery, and every other article, come in British ships, or come in your ships; since, in whatever ships they come, they take away our means of living?"

Gentlemen, it is a historical truth, manifested in a thousand ways by the public proceedings and public meetings of the times, that the necessity of a general and uniform impost system, which, while it should provide revenue to pay the public debt, and foster the commerce of the country, should also encourage and sustain domestic manufactures, was the leading cause in producing the present national Constitution. No class of persons was more zealous for the new Constitution, than the handicraftsmen, artisans, and manufacturers. There were then, it is true, no large manufacturing establishments. There were no manufactories in the in-

terior, for there were no inhabitants. Here was Fort Pitt—it had a place on the map—but here were no people, or only a very few. But in the cities and towns on the Atlantic, the full importance, indeed the absolute necessity, of a new form of government, and a general system of imposts, was deeply felt.

It so happened, Gentlemen, that, at that time, much was thought to depend on Massachusetts; several States had already agreed to the Constitution: if her Convention adopted it, it was likely to go into operation. This gave to the proceedings of that Convention an intense interest, and the country looked, with trembling anxiety, for the result. That result was for a long time doubtful. The Convention was known to be nearly equally divided; and down to the very day and hour of the final vote, no one could predict, with any certainty, which side would preponderate. It was under these circumstances, Gentlemen, and at this crisis, that the tradesmen of the town of Boston, in January, 1788, assembled at the Green Dragon, the place where the whigs of the revolution, in its ancient stages, had been accustomed to assemble. They resolved, that, in their opinion, if the Constitution should be adopted, "*trade and navigation would revive and increase, and employ and subsistence afforded to many of their townsmen, then suffering for the want of the necessaries of life;*" and that, on the other hand, should it be rejected, "*the small remains of commerce yet left would be annihilated; the various trades and handicrafts dependent thereon decay; the poor be increased, and many worthy and skilful mechanics compelled to seek employ and subsistence in strange lands.*" These resolutions were carried to the Boston delegates in the Convention, and presented to the hand of Samuel Adams. That great and distinguished friend of American liberty, it was feared, might have doubts about the new Constitution. Naturally cautious, and sagacious, it was apprehended he might fear the practicability, or the safety, of a General Government. He received the resolutions from the hands of Paul Revere, a brass-founder by occupation, a man of sense and character, and of high public spirit, whom the mechanics of Boston ought never to forget. "How many mechanics," said Mr. Adams, "were at the Green Dragon when these resolutions were passed?" "More, sir," was the reply, "than the Green Dragon could hold." "And where were the rest, Mr. Revere?" "In the streets, sir." "And how many were in the streets?" "More, sir, than there are stars in the sky." This is an instance, only, among many, to prove, what is indisputably true, that the tradesmen and mechanics of the country did look to the new Constitution for encouragement and protection in their respective occupations. Under these circumstances, it is not to be expected that they will abandon the principle, in its application to their own employments, any more than

in its application to the commercial and shipping interests. They believe the power is in the Constitution; and doubtless they mean, so far as depends on them, to keep it there. Desirous of no extravagant measure of protection; desirous of oppressing or burdening nobody, seeking nothing as a substitute for honest industry and hard work; as a part of the American family, having the same interests as other parts,—they will continue their attachment to the Union and the Constitution, and to all the great and leading interests of the country.

Gentlemen, your worthy mayor has alluded to the subject of internal improvements. Having no doubt of the power of the General Government over various objects comprised in that denomination, I confess I have felt great pleasure in forwarding them, to the extent of my ability, by means of reasonable Government aid. It has seemed strange to me, that, in the progress of human knowledge and human virtue (for I have no doubt that both are making progress), the objects of Government should so long have been principally confined to external affairs, and to the enactment of the general laws, without considering how much may be done by Government, which cannot be done without it, for the improvement of the condition of the people. There are many objects, of great value to man, which cannot be attained, by unconnected individuals, but must be attained, if attained at all, by association. For many of them, Government seems the most natural and the most efficient association. Voluntary association has done much, but it cannot do all. To the great honor and advantage of your own State, she has been forward in applying the agency of Government to great objects of internal utility. But even States cannot do every thing. There are some things which belong to all the States; and, if done at all, must be done by all the States. At the conclusion of the late war, it appeared to me that the time had come for the Government to turn its attention inward; to survey the condition of the country, and particularly the vast Western Country; to take a comprehensive view of the whole; and to adopt a liberal system of internal improvements. There are objects not naturally within the sphere of any one State, which yet seemed of great importance, as calculated to unite the different parts of the country, to open a better and shorter way between the producer and consumer, to be also of the highest advantage to Government itself, in any exigency. It is true, Gentlemen, that the local theatre for such improvement is not mainly in the East. The East is old, pretty fully peopled, and small. The West is new, vast, and thinly peopled. Our rivers can be measured—yours cannot. We are bounded—you are boundless. The West was, therefore, most deeply interested in this system, though, certainly, not alone interested, even in such works as had a western locality. To clear

her rivers was to clear them for the commerce of the whole country; to construct harbors, and clear entrances to existing harbors, whether on the Gulf of Mexico or on the lakes, was for the advantage of that whole commerce. And if this were not so, he is but a poor public man, whose patriotism is governed by the cardinal points; who is for or against a proposed measure, according to its indication by compass, or as it may happen to tend farther from, or come nearer to, his own immediate connections. And look at the West—look at these rivers—look at the lakes—look especially at Lake Erie, and see what a moderate expenditure has done for the safety of human life, and the preservation of property, in the navigation of that lake; and done, let me add, in the face of a fixed and ardent opposition.

I rejoice, sincerely, Gentlemen, in the general progress of internal improvement, and in the completion of so many objects near you, and connected with your prosperity. Your own canal and rail-road unite you with the Atlantic. Near you is the Ohio Canal, which does so much credit to a younger state, and with which your city will doubtless one day have a direct connection. On the south and east approaches the Baltimore and Ohio Rail-road, a great and spirited enterprise, which I always thought entitled to the aid of Government, and a branch of which, it may be hoped, will yet reach the head of the Ohio.

I will only add, Gentlemen, that for what I have done, in the cause of internal improvement, I claim no particular merit, having only acted with others, and discharged, conscientiously and fairly, what I regarded as my duty to the whole country.

Gentlemen, the Mayor has spoken of the importance and necessity of education. And can any one doubt, that to man—as a social and an immortal being, as interested in the world that is, and vastly more concerned for that which is to be—education, that is to say, the culture of the mind and the heart, is an object of infinite importance? So far as we can discern the designs of Providence, the formation of the mind and character, by instruction in knowledge, and instruction in righteousness, is a main end of human being. Among the new impulses which society has received, none is more gratifying than the awakened attention to public education. That object begins to exhibit itself to the minds of men, in its just magnitude, and to possess its due share of regard. It is but in a limited degree, and indirectly only, that the powers of the General Government have been exercised in the promotion of this object. So far as these powers extend, I have concurred in their exercise with great pleasure. The Western States, from their recency of settlement, from the great proportion of their population which are children, and from other circumstances, which must, in all new countries, more or less, curtail individual means, have appeared to

me to have peculiar claims to regard; and in all cases, where I have thought the power clear, I have most heartily concurred in measures designed for their benefit, in this respect. And, amidst all our efforts for education, literary, moral, or religious, be it always remembered, that we leave opinion and conscience free. And Heaven grant, that it may be the glory of the United States, to have established two great truths, of the highest importance to the whole human race;—first, that an enlightened community is capable of self-government; and, second, that the toleration of all sects does *not* necessarily produce indifference to religion.

But I have already detained you too long. My Friends, Fellow-citizens, and Countrymen, I take a respectful leave of you. The time I have passed on this side the Alleghany has been a succession of happy days. I have seen much to instruct and much to delight me. I return you, again and again, my unfeigned thanks for the frankness and hospitality with which you have made me welcome; and, wherever I may go, or wherever I may be, I pray you to believe I shall not lose the recollection of your kindness.

SPEECH

ON MOVING FOR LEAVE TO INTRODUCE A BILL TO CONTINUE THE BANK OF THE UNITED STATES FOR SIX YEARS, DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 18, 1834.

MR. PRESIDENT: I rise, Sir, pursuant to notice, to ask leave to bring in a bill to continue, for six years, the act incorporating the subscribers to the Bank of the United States; and shall hope for that indulgence of the Senate which is usually granted on such occasions, if I accompany its introduction with some remarks on the general state of the country, as well as on the nature of the measure proposed. If leave be granted, it is my purpose to move to refer the bill to the Committee on Finance, that it may take the usual course, and come up for the consideration of the Senate in due season.

Mr. President, in the midst of ample means of national and individual happiness, we have, unexpectedly, fallen into severe distress. Our course has been suddenly arrested. The general pulse of life stands still, and the activity and industry of the country feel a pause. A vastly extended and beneficent commerce is checked; manufactures suspended, with incalculable injury to those concerned in them; and the labors of agriculture threatened with the loss of their usual reward. Our resources are, nevertheless, at the same time, abundant, and all external circumstances highly favorable and advantageous; such as fairly promised us, not only a continuance of that degree of prosperity which we have actually enjoyed, but its rapid advancement, also, to still higher stages.

The condition of the country is, indeed, singular. It is like that of a strong man chained. In full health, with strength unabated, and all its faculties unimpaired, it is yet incapable of performing its accustomed action. Fetters and manacles are on all its limbs. If we could but unbind it; if we could break these iron chains; if we could once more set it free,—it would, in a moment, resume its activity, and go on again in its rapid career. It is our duty, Sir, to relieve this restraint, to unshackle the industry of the people, and give play, once more, to their common action and their common

energies. The evils, all the evils, which we now feel, and feel so acutely, result from political measures; and by political measures, and political measures alone, can they be redressed. They have their origin in acts of Government, and they must find their cure in other acts of Government.

Only six months ago, Sir, *the country* presented an aspect, in regard to all its great interests, exceedingly satisfactory and gratifying. Our commerce was highly prosperous, and our manufactures, for the present at least, flourishing. Agricultural products commanded fair prices, and the general appearance of things exhibited more than a usual degree of activity. The year elapsing between the autumn of 1832 and that of 1833, was a year of great prosperity. In the activity of commerce, it is possible enough that some degree of overtrading had taken place; but there is nothing to show that great excess had been committed in that particular. In general, the state of things was sound, as well as prosperous. The commerce of the country had reached, I think, to a greater extent than in any former year; the amount of exports for 1833 being, according to the treasury estimate, no less than ninety millions of dollars, and that of the imports no less than one hundred and nine millions. The internal and coasting trade was in a still more flourishing condition. This branch of the national industry has grown into the very highest importance, affording a vast field for active usefulness, enriching all parts of the country by its mutual exchanges of commodities, and furnishing profitable employment to great numbers of the people. It was carried on last year, both by sea and land, with great vigor; and the situation of the currency of the country gave it facilities such as never existed elsewhere over so broad an extent. The money circulation was free, and the banks in good credit. They were, doubtless, somewhat too economical in the use of specie, and sustained their credit on a basis not sufficiently broad to be quite secure. But no great degree of danger to the circulation was felt, or generally feared.

Such was our condition in September last; and the change which has since taken place must strike all minds. How do we stand now, in respect to these great interests? Let us look to our commerce, the main source of our revenue, as well as a source of wealth, and let us see how that is affected, or likely to be affected, by recent occurrences. I have stated the amount of exports and imports for the last year; those for the present cannot, of course, be yet estimated with accuracy; but we are not without some means of forming opinions upon this interesting point. I think it is evident that there must be a falling off in the imports, and consequently a falling off in the revenue. I shall be very glad to find myself mistaken in this opinion; but it appears to me there is much reason to entertain it. As one of the Committee on Finance, I have felt

it my duty, of course, to look to the state of the treasury, and to form some opinion, if I could, of what may be its future condition. Its present state, as we learn from the Secretary's report, with his estimate of the receipts and expenditures of the year, is substantially as follows:

Estimated balance in the treasury, January 1, 1834, . .		$7,983,790
But from this deduct the amount of appropriations already made, and which remain unsatisfied, which amount, the Secretary supposes, may yet be required for the objects for which it was appropriated, ...		5,190,287
Balance remaining in the treasury, unappropriated, . .		$2,793,503
Estimated amount of receipts for 1834:		
Customs, ...	$15,000,000	
Land, ...	3,000,000	
Bank dividends and miscellaneous, . .	500,000	
		18,500,000
Total of means for the use of 1834, ...		$21.293,503
Estimated expenditures for 1834, ...		23,501,994

This statement would seem to exhibit a deficit of more than two millions; and this would doubtless be the result, should the appropriations of the year all be called for within the year; but experience shows that this is not to be expected. What amount of appropriations may remain uncalled for, however, is necessarily uncertain.

Among the expenditures, it is to be observed, is included the sum of five millions, within a fraction, for the payment of the balance of the public debt, which becomes "*reimbursable* at the commencement of next year."

The Secretary supposes, even without making any allowance for the effect of recent measures, that the receipts for 1835 will be still less than those for 1834; and that, unless the revenue should be more productive than is anticipated, it will be necessary, in two years from this time, to retrace our steps, and to impose duties on articles which are now free, in order to meet the current expenses of the Government.

If such were the prospects of the country in regard to revenue, before the late measures had so much disturbed its commerce, it cannot but be expected that, under the influence of that cause, there may be a very considerable deficiency, especially should the cause continue.

It is not very easy to ascertain to what extent the importations of the year may fall short of previous importations, in consequence of the disturbed state of things; but I know an opinion is entertained among those who have the best means of forming a correct judgment, that there may be a falling off in the receipts of the

customs from a quarter to a third of the amount anticipated. Should this prove to be true, which there is certainly too much reason to fear, Congress may be called on, much earlier than within two years, to furnish additional means of revenue.

The diminution will be mainly felt in the last half of the year, it being generally understood that orders for fall importations have been countermanded to a great extent. It is not thought improbable, that the receipts of the year from customs, estimated at fifteen millions, will fall down to twelve. This, should it happen, would no otherwise disturb the intended course of things, than as it would postpone the payment of the balance of the public debt; but this effect it is not unlikely to produce. On such subjects, however, no very sure anticipations can be founded, and therefore I speak with no positiveness. But it is my expectation that the receipts of the year will fall below the estimate, and probably to the extent I have mentioned; and that this effect will be produced by no other cause than the deranged state of things, occasioned by the removal of the public moneys.

If such be the consequences of the measure on our foreign commerce, and on the revenue, its effect on the internal trade of the country is a thousand times more disastrous. Here it produces not only diminution, but stagnation; and such a stagnation as has caused *a cessation of production.* The industry of the country is arrested, and its useful labor suspended. Great activity prevailed in the manufacturing districts, under a sanguine expectation that the law of the last session would, for a time at least, ensure success to that great interest. But this new measure has struck that interest with a sudden and deadly blow. It is now but little more than twelve months since the manufacturing portion of the community was deeply alarmed by the pendency of a measure in the other House, known usually as Mr. Verplanck's bill. Throughout the Middle and the Northern States, and wherever that interest existed, the apprehension of change in the policy of the country diminished the value of property, embarrassed all calculations for the future, and disturbed and deranged the course of private occupation and industry. But how small was all that evil, compared with the effects produced by the Secretary, when he interfered with the public revenues!

I will not go over the long list of cases, in which prosperous manufacturing establishments have been compelled to discontinue their operations, under the pressure of the times. I will only advert to an instance or two, taken, without selection, from papers and letters before me. Let Paterson, in New Jersey, be one of these instances; the state of which interesting and afflicted town has been, indeed, repeatedly presented to the Senate by the members from that State. The population of Paterson, I believe, is about

ten thousand; and it is known to be a population almost exclusively engaged in manufactures. In September last, 43,500 spindles were in operation in it. Of these, 24,500 have stopped, and 5,000 others are expected to stop as soon as stock on hand is worked up. I am informed that the manufacturers at Paterson cannot prevail on their consignees in Philadelphia and New York to come under responsibilities for them, even to the amount of one third the cost of producing the article. The means, therefore, of paying labor, and purchasing new stock, are completely cut off.

We may see another instance, sufficiently appalling, in the manufactories in New Hampshire. I understand a cotton mill at Dover, of six thousand spindles, has ceased operation, and another was to cease the 15th of this month; a mill with four thousand spindles, at Newmarket, and another at Nashua, of five thousand, have ceased also; and a large woollen mill, at a place called the Great Falls, employing two or three hundred hands, has stopped with the rest. These, Sir, are instances of the effect of the experiment upon our manufacturing interests. Accounts similar to these have reached us from New York, Connecticut, Maine, Vermont, Rhode Island, and Pennsylvania. I need not enter into the particulars of these accounts. Their general character is like that of those which I mentioned from New Jersey and New Hampshire.

It is often inquired, how this enormous amount of evil could spring from a cause so apparently inadequate to produce it? Can it be possible, it is asked, that the Secretary has brought about all this distress, simply by removing a few millions of dollars from one bank into other banks? Sir, nothing is more true, and nothing more easily accounted for.

Every commercial country has one great representative, constantly passing and acting between all its citizens. This universal representative is money, or credit, in some form, as its substitute. Without this agency nothing can be bought, and nothing can be sold: capital has no income, and labor no reward. It is no more possible to maintain the ordinary business and intercourse between man and man without money and credit, than to maintain an intercourse between nations without ministers or public agents, or to maintain punctual correspondence by letter without the mail. And all the distress which the country now suffers arises solely from acts which have deranged the currency of the country, and the credit of the commercial community. The country is as rich, in its general appearance, as it was before the experiment was begun; that is to say, men have the same houses, lands, ships, and merchandise. But the value of these has fallen; or, to speak more correctly, they have lost the power of being exchanged; and they have lost this power because of the embarrassment which has befallen the general medium of exchange.

Six months ago, a state of things existed highly prosperous and advantageous to the country, but liable to be injuriously affected by precisely such a cause as has now been put into operation upon it. Business was active, and carried to a great extent. Commercial credit was expanded, and the circulation of money was large. This circulation, being of paper, of course rested on credit; and this credit was founded on banking capital, and bank deposits. The public revenues, from the time of their collection to the time of their disbursement, were in the Bank and its Branches, and, like other deposits, contributed to the means of discount. Between the Bank of the United States and the State banks, there was a degree of watchfulness, perhaps of rivalry; but there was no enmity, no hostility. All moved in their own proper spheres, harmoniously and in order.

The Secretary disturbed this state of peace. He broke up all the harmony of the system. By suddenly withdrawing all the public moneys from the Bank of the United States, he forced that Bank to an immediate correspondent curtailment of its loans and discounts. It was obliged to strengthen itself; and the State Banks, taking the alarm, were obliged to strengthen themselves also by similar measures; so that the amount of credit actually existing, and on which men were doing business, was suddenly greatly diminished. Bank accommodations were withdrawn; men could no longer fulfil their engagements by the customary means; property fell in value; thousands failed; many thousands more maintained their individual credit by enormous sacrifices; and all, being alarmed for the future, as well as distressed for the present, forbore from new transactions and new engagements. Finding enough to do to stand still, they do not attempt to go forward. This deprives the industrious and laboring classes of their occupations, and brings want and misery to their doors. This, Sir, is a short recital of cause and effect. This is the history of the first six months of the "experiment."

Mr. President, the recent measures of the Secretary, and the opinions which are said to be avowed by those who approve and support them, threaten a wild and ruthless attack on the commercial credit of the country, on that most delicate and at the same time most important agent in producing general prosperity. Commercial credit is the creation of modern times, and belongs, in its highest perfection, only to the most enlightened and best-governed nations. In the primitive ages of commerce, article is exchanged for article, without the use of money or credit. This is simple barter. But, in its progress, a symbol of property, a common measure of value, is introduced, to facilitate the exchanges of property; and this may be iron, or any other article fixed by law or by consent, but has generally been gold and silver. This, cer-

tainly, is a great advance beyond simple barter, but no greater than has been gained, in modern times, by proceeding from the mere use of money to the use of credit. Credit is the vital air of the system of modern commerce. It has done more, a thousand times, to enrich nations, than all the mines of all the world. It has excited labor, stimulated manufactures, pushed commerce over every sea, and brought every nation, every kingdom, and every small tribe, among the races of men, to be known to all the rest. It has raised armies, equipped navies, and, triumphing over the gross power of mere numbers, it has established national superiority on the foundation of intelligence, wealth, and well-directed industry. Credit is to money what money is to articles of merchandise. As hard money represents property, so credit represents hard money; and it is capable of supplying the place of money so completely, that there are writers of distinction, especially of the Scotch school, who insist that no hard money is necessary for the interests of commerce. I am not of that opinion. I do not think any Government can maintain an exclusive paper system, without running to excess, and thereby causing depreciation.

I hold the immediate convertibility of bank notes into specie to be an indispensable security to their retaining their value; but, consistently with this security, and, indeed, founded upon it, credit becomes the great agent of exchange. It is allowed that it increases consumption, by anticipating products; and that it supplies present wants out of future means. And as it circulates commodities without the actual use of gold and silver, it not only saves much by doing away with the constant transportation of the precious metals from place to place, but accomplishes exchanges with a degree of despatch and punctuality not otherwise to be attained. All bills of exchange, all notes running upon time, as well as the paper circulation of the banks, belong to the system of commercial credit. They are parts of one great whole. And, Sir, unless we are to reject the lights of experience, and to repudiate the benefits which other nations enjoy, and which we ourselves have hitherto enjoyed, we should protect this system with unceasing watchfulness, taking care, on the one hand, to give it full and fair play, and, on the other, to guard it against dangerous excess. We shall show ourselves unskilful and unfaithful statesmen, if we do not keep clear of extremes on both sides.

It is very true that commercial credit, and the system of banking, as a part of it, does furnish a substitute for capital. It is very true that this system enables men to do business, to some extent, on borrowed capital; and those who wish to destroy all such, act wisely to that end by decrying it.

This commercial credit, Sir, depends on wise laws, steadily administered. Indeed, the best-governed countries are always the

richest. With good political systems, natural disadvantages, competition, and the world, may all be defied. Without such systems, climate, soil, position, and every thing else, may favor the progress of wealth, and yet nations be poor. What but bad laws and bad government has retarded the progress of commerce, credit, and wealth, in the peninsula of Spain and Portugal, a part of Europe distinguished for its natural advantages, and especially suited, by its position, for an extensive commerce, with the sea on three sides of it, and as many good harbors as all the rest of Europe? The whole history of commerce shows that it flourishes or fades, just in proportion as property, credit, and the fruits of labor, are protected by free and just political systems. Credit cannot exist under arbitrary and rapacious governments, and commerce cannot exist without credit. Tripoli, and Tunis, and Algiers, are countries, above all others, in which hard money is indispensable; because, under such governments, nothing is valuable which cannot be secreted and hoarded. And as government rises, in the scale of intelligence and liberty, from these barbarous despotisms, to the highest rank of free states, its progress is marked, at every step, by a higher degree of security and of credit. And this undeniable truth should make well-informed men ashamed to cry out against banks and banking, as being aristocratical, oppressive to the poor, or partaking of the character of dangerous monopoly. Banks are a part of the great system of commercial credit, and have done much, under the influence of good government, to aid and elevate that credit. What is their history? Where do we first find them? Do they make their first appearance in despotic governments, and show themselves as inventions of power to oppress the people? The first bank was that of Venice; the second that of Genoa. From the example of these republics, they were next established in Holland, and the free city of Hamburgh. England followed these examples, but not until she had been delivered from the tyranny of the Stuarts, by the revolution of 1688. It was William the Deliverer, and not William the Conqueror, that established the Bank of England. Who supposes that a Bank of England could have existed in the times of Empson and Dudley? Who supposes that it could have lived under those ministers of Charles II. who shut up the exchequer; or that its vaults could have been secure against the arbitrary power of the brother and successor of that monarch?

The history of banks belongs to the history of commerce and the general history of liberty. It belongs to the history of those causes which, in a long course of years, raised the middle and lower orders of society to a state of intelligence and property, in spite of the iron sway of the feudal system. In what instance have they endangered liberty, or overcome the laws? Their very

existence, on the contrary, depends on the security and the rule both of liberty and law. Why, Sir, have we not been taught, in our earliest reading, that, to the birth of a commercial spirit, to associations for trade, to the guilds and companies formed in the towns, we are to look for the first appearance of liberty, from the darkness of the middle ages; for the first faint blush of that morning, which has grown brighter and brighter till the perfect day has come? And it is just as reasonable to say that bills of exchange are dangerous to liberty, that promissory notes are dangerous to liberty, that the power of regulating the coin is dangerous to liberty, as that credit, and banking, as a part of credit, are dangerous to liberty.

Sir, I hardly know a writer on these subjects who has not selected the United States as an eminent and striking instance, to show the advantages of well-established credit, and the benefit of its expansion, to a degree not incompatible with safety, by a paper circulation. Or, if they do not mention the United States, they describe just such a country; that is to say, a new and fast-growing country. Hitherto, it must be confessed, our success has been great. With some breaks and intervals, our progress has been rapid, because our system has been good. We have preserved and fostered credit, till all have become interested in its further continuance and preservation. It has run deep and wide into our whole system of social life. Every man feels the vibration, when a blow is struck upon it. And this is the reason why nóbody has escaped the influence of the Secretary's recent measure. While credit is delicate, sensitive, easily wounded, and more easily alarmed, it is also infinitely ramified, diversified, extending every where, and touching every thing.

There never was a moment in which so many individuals felt their own private interest to be directly affected by what has been done, and what is to be done. There never was a moment, therefore, in which so many straining eyes were turned towards Congress. It is felt, by every one, that this is a case in which the acts of the Government come directly home to him, and produce either good or evil, every hour, upon his personal and private condition. And how is the public expectation met? How is this intense, this agonized expectation answered? I am grieved to say, I am ashamed to say, it is answered by declamation against the Bank, as a monster, by loud cries against moneyed aristocracy, by pretended zeal for a hard-money system, and by professions of favor and regard to the poor.

The poor! We are waging war for the benefit of the poor. We slay that monster, the Bank, that we may defeat the unjust purposes of the rich, and elevate and protect the poor! And what is the effect of all this? What happens to the poor, and all the

middling classes, in consequence of this warfare? Where are they? Are they well fed, well clothed, well employed, independent, happy, and grateful? They are all at the feet of the capitalists; they are in the jaws of usury. If there be hearts of stone in human bosoms, they are at the mercy of those who have such hearts in their breasts. Look to the rates of interest, mounting to twenty, thirty, fifty per cent. Sir, this measure of Government has transferred millions upon millions of hard-earned property, in the form of extra interest, from the industrious classes, to the capitalists, from the poor to the rich. And this is called putting down a moneyed aristocracy! Sir, there are thousands of families who have diminished, not their luxuries, not their amusements, but their meat and their bread, that they might be able to save their credit, by paying enormous interest. And there are other thousands, who, having lost their employment, have lost every thing, and who yet hear, amidst the bitterness of their anguish, that the great motive of Government is kindness to the poor!

It is difficult, Sir, to restrain one's indignation, when, to so much keen distress, there is added so much which has the appearance of mere mockery. Sir, let the system of the Administration go on, and we shall soon not know our country. We shall see a new America. On the map, where these United States have stood, we shall behold a country that will be strange to us. We shall see a class of idle rich, and a class of idle poor; the former a handful, the latter a host. We shall no longer behold a community of men, with spirits all active and stirring, contributing, all of them, to the public welfare, while they partake in it, pushing on their fortunes, and bettering their own condition, and helping to swell, at the same time, the cup of the general prosperity to overflowing. We shall see no more of that credit which reaches out its hand to honest enterprise; of that certainty of reward, which cheers on labor to the utmost stretch of its sinews; of that personal and individual independence, which enables every man to say that no man is his master. Sir, I will not look on the picture. I will not imagine what spectacle shall be exhibited, when this country not only halts in her onward march, but recedes; when she tracks back in the long and rapid strides of her forward movement; when she sets herself to undo all that she has done; when she renounces the good she has attained; when she obstructs credit, destroys enterprise, arrests commerce, and smothers manufactures.

Mr. President, I confess I find it difficult to respect the intelligence, and at the same time the motives, of those, who alarm the people with the cry of danger to their liberties from the Bank. Do they see the same danger from other banks? I think not. With them, bank capital and bank credit is dangerous or harmless, according to circumstances. It is a lion, whose conduct and char-

acter appear to depend on his keeper. Under the control of this Government, it is fearful and dangerous; but under State authority, it "roars as gently as a sucking dove; it roars as it were any nightingale."

Both the members from New York have labored to persuade us that the public liberties of this whole country are in imminent danger from a bank with thirty-five millions. And yet, Sir, they feel no fears for the liberty of the people of their own State, with a banking capital of twenty-three millions, and a proposed addition of ten millions, all lodged in banks associated under the Safety Fund system, and all under the supervision of a political board, appointed by the Government. In all this they see no danger to liberty; but their anxiety is intense, lest a bank of thirty-five millions should enslave all the people of the twenty-four States!

Again, Sir, from the time of the veto message to the present moment, the country has been assailed with the cry of danger, from the small portion of foreign capital which is in the stock of the Bank. Republicanism, it is said, cannot exist in a country where there is a bank with dukes and marquisses, and lords, among its stockholders. And yet, Sir, have we not seen the Executive approving of an enormous loan by the cities of this District from Dutch capitalists, and sanctioning a law binding down all their citizens, and all their property, to pay the interest of this foreign debt, by provisions vastly more strict and severe than those which compel the payment of taxes to their own Government? And is not Pennsylvania now deliberating whether she will not send an agent to Europe to borrow money to meet that very exigency which the present state of things creates? And is not the new bank, too, proposed to be established in New York, to be created on foreign capital?

Sir, are arguments of this nature altogether creditable to the country? Do they exhibit us in a respectable light abroad? Do intelligent observers, elsewhere, behold our public men addressing themselves to the people in fair discussion on the real merits of public questions; or may they not think, rather, that they see them attempting to carry favorite measures of party, by false cries of danger to liberty?

The truth is, that banks, every where, and especially with us, are made for the borrowers. They are made for the good of the many, and not the good of the few. Even their ownership, to a very great extent, is in the hands of men of moderate property. I have read a very able speech, by Mr. Cushing, in the Legislature of Massachusetts, in which he states that he has taken pains to examine the list of stockholders, in several banks in his neighborhood, and he finds a majority of the stock (I think more than two thirds) in the hands of charitable societies, guardians, widows,

and traders with small capital. And, Sir, at this moment, the stockholders of the Bank of the United States have infinitely less interest in the questions which we are discussing, as stockholders, than they have as citizens of the country. The stock is constantly in the market, and daily changing hands; and any one who wishes for it may always buy it. It is not permanently vested in any hands; and this of itself shows that the corporation is, in its nature, incapable of prosecuting any purpose hostile to the public liberties. Indeed, Sir, I think it time, high time, that there should be a pause in this outcry against the Bank, as dangerous from its political power, or as favoring wealth in its masses rather than in its distribution. Sir, prejudice, excited against the Bank is a much more powerful engine for political purposes than the Bank itself. It is more than a match for ten banks. Not long ago, a member, not now with us, declared on this floor, that, in the course of his political struggles, some years ago, he felt sure of triumph, the moment an impression was made that the Bank had taken part against him; and that, if he were again to be a candidate, he should wish for no surer pledge of success. His own experience, thus candidly stated, seems not to have been lost on others. I full well know, Sir, the power of such prejudices. I know how easily they may be excited, and how potent is their agency. Efforts to excite them, and calculations on their efficacy, when excited, have sometimes succeeded, and must be expected sometimes to succeed, in popular governments. They are among the means by which little men occasionally become great. But they are not among the means by which lasting character is to be attained, any more than they are among the means by which substantial and important public service is to be rendered to the country.

I now proceed, Mr. President, to the state of opinion existing, both in and out of Congress, as to the remedy proper for the present condition of things.

There are three classes of persons, holding on this subject different opinions—

1. Those who believe a bank to be Constitutional and necessary, and, seeing no danger from the present institution, would prefer, if they could follow their own choice, to recharter the Bank, for the usual period, with the usual powers; modified, however, in any manner that the experience of the past may suggest.

2. There are those who think a bank useful, but who do not believe Congress has the power to incorporate a bank, under any form.

3. There are those who admit the power of Congress to make a bank, and are in favor of some bank, but oppose the continuance of the present.

It is obvious, Sir, that, if any relief come to the country, it must proceed from some degree of union between these classes, or some of them.

And the question is, Is there any common ground on which these can meet? Is there any expedient which they will consent to lay hold on to save the country? Or will they leave it a prey to their differences of opinion?

Now, Sir, among those who oppose those measures of Government which have brought the present distress on the country, a great majority would prefer a continuance of the charter of the present Bank for the usual term. This would be their wish, and I am one of them. We passed a bill for such a recharter, through both Houses, two years ago, but it was negatived by the President. I would prefer a bank of fifteen or twenty years' duration; either this or a new one; for I do not act from a regard to the pecuniary interest of the stockholders in the present Bank, although I would not consent to do them any injustice.

But, Sir, I see no chance of renewing this charter, at present, for a long period. It appears to me that the minds of members of Congress are in a state to render this hopeless. I give up, therefore, my own preference; I sacrifice my opinions to that necessity which I feel to be imposed upon me by the condition of the country. I go for relief, for efficient relief, and for immediate relief. I feel this to be demanded of me, by every dictate of duty and patriotism, and by the loud voice of the country. I obey that voice, and cheerfully yield every thing to the accomplishment of the object. When I ask others to make sacrifices, I begin with making them myself.

Preferring a permanent measure, I yet agree to a temporary measure. Desirous of settling the question for a length of years, I yet consent to leave it open, in the hope of obtaining present relief and security; and I earnestly entreat all those with whom I have generally concurred in opinion, to concur in a temporary measure. If we cannot do all we would, let us do what we can. *Let us make a proposition which no reasonable man, who really desires to relieve the country, can object to.* That is my object, and with that single object have I prepared this bill.

And now, Sir, I will say a word to the gentlemen who have Constitutional scruples about all banks. They find a Bank actually existing. They find that this Bank, or another like it, has existed through more than three fourths of the whole period of our Government. They find Congress to have asserted the Constitutional power to establish a bank, over and over again; they find all the judicial tribunals to have sanctioned the power, and four fifths of the State Legislatures, and as great a proportion of the people, to have confirmed it. Now, Sir, as sensible and

candid men, they cannot say that it is a clear case *against* the power. They must admit there is some reason for supposing the power to exist. The most they can say is, that the Bank stands on a doubtful authority. Now, suppose that to be true. Let it be admitted that the Bank stands on a doubtful title. Does it follow that they must suddenly destroy it? Will not they give it time to wind up its affairs, without producing excessive injury to the people? Shall it be brought to a sudden termination, at whatever cost, at whatever ruin to the public happiness?

Besides, Sir, if the Bank be unconstitutional, what is that state of things into which the country must fall, when the Bank charter expires? Can any thing be more unconstitutional than that state of things?

Again, Sir, I must say, that some of those States, now most opposed to the Bank on Constitutional ground, helped to make it. Look to New York; look even to Virginia: these States had much more hand in creating this Bank than Massachusetts. In 1816, there was no majority in the two Houses of Congress of the members from Virginia opposed to the Bank on Constitutional grounds. Virginia actually gave much more support to it than Massachusetts, and a Virginia President approved the bill. May not a degree of forbearance, then, be justly expected, even though the opinion should now be, that the Bank stands on a doubtful right? Sir, it is enough to state these suggestions, without arguing them at length, to candid and honorable men.

I do not, on this occasion, argue the question of the power of Congress to make a bank, but I cannot but recur to the strong view presented of the question the other day by the honorable member from Vermont near me [Mr. Prentiss]. Congress, said he, having, by express grant, the power to regulate commerce between the several States, if money, if currency, silver or paper, be a thing essential to commerce, how can they regulate the commerce without regulating the currency of the country? And if the Constitution of the United States does allow the States to create banks, with power to issue paper, and Congress still may not control or regulate that paper, either by a bank of its own, or any other just means, how can it be said that Congress has power to regulate commerce between the States? These are questions, Sir, which I cannot answer.

In the next place, Sir, as I have said, there are those who are for a new bank.

Sir, gentlemen may well be for a new bank; but they cannot be for that and for nothing else, if they really intend to relieve the country. *No new bank can be established before* 1836. This we all know. And what are we to do in the mean time? I am not against a new bank, when the proper time comes to make it,

if that shall be the general voice of the country; but it is idle to talk of a new bank now. Those cannot feel the exigency of the moment, they do not realize the pressure of the times, who talk of a new bank, and nothing but a new bank. Let them bring forward a project for a new bank whenever they please; but let us, in the mean time, not suffer the present distress of the country to go on, and to increase, for the want of a more immediate measure. I do not object to take the question of a new bank into consideration at any time, either in this Congress or the next; but I do object to holding out any hope to the country of immediate relief from such a measure, because we know it cannot afford such relief. We are in an emergency. Great interests are in danger of being overwhelmed; we need some plank, something to lay hold on, to buoy us up, and keep our heads above water, until more effectual and permanent provision for our safety can be made.

I will now, Sir, state the general substance of the bill, which I ask leave to introduce.

The first section proposes to continue the present Bank for six years, but with this provision, viz. that so much of the present charter as gives the Bank an exclusive right, shall not be continued, but that Congress may make any other bank, if it see fit, to come into existence at any time after 1836.

This is the great feature of the bill. It continues the Bank for a short period, and takes away the exclusive right. Congress is thus left at perfect liberty to make another bank whenever it chooses. When the present agitation shall have subsided, when a day of calm consideration comes, and the people have had time for deliberation, then Congress may make a permanent provision, satisfactory to itself and to the country. Can any thing be more reasonable than this? Can the bitterest enemy of the present Bank refuse to give it time to wind up its affairs without distress to the people? Can the most ardent advocate of a new bank refuse, meantime, to allow the country to relieve itself, by the use of the present, until a new one shall be established?

Sir, I am not dealing in plausibilities only. I mean to leave the whole question, between this Bank and a new one, fairly open. I mean to give to neither any manner of advantage. If Congress establish a new bank, it may easily go into operation while the present is gradually retiring from operation, and the business of the country will feel no violent shock.

I mean to give the present Bank no claim to a renewal; but, on the contrary, the only new power conferred on it by this bill is a power to enable it to wind up its concerns.

As to the time, I think six years not too long. If we were now certain that a new bank would come into existence in 1836, I

think it would be convenient, for all parties, that this Bank should have six years to run. The new bank would hardly get into full operation under a year or two, and time is absolutely necessary to enable this Bank gradually to collect its debts. A hastened collection must distress the people. With an existing debt of fifty-five millions, and pressed and solicited, on all sides, still further to extend its loans, in order to relieve the country, all must see that the affairs of the Bank cannot be closed without intolerable pressure on the community, unless time be given for that purpose. But, if six years be thought too long, I will consent to five, or to four. My own opinion is, that six years is not too long.

The second section provides, that the public moneys, becoming due after the 1st of July, shall be deposited in the Bank and its Branches as heretofore, subject, however, *at any time after this act shall be accepted*, to be removed by order of Congress. If Congress shall establish a new bank, they will of course remove the deposits into it. The effect of this provision will be to give to Congress, at all times, what rightfully belongs to them—a full control over the public purse. It separates that purse from the sword, and reëstablishes the just authority of the Legislature.

Then comes the section by which the Bank is to pay $200,000 a year, for each of the six years, as compensation for the benefits of this continuance of its charter. This provision is adopted from the bill of 1832. For one, I should have been willing that a fixed per centage should have been paid, instead of this *bonus*, to be divided among the States, according to numbers; but others objected to this, and I have sought to avoid all new causes of difference.

The next section authorizes Congress to restrain the Bank from issuing notes of less denomination than twenty dollars, if it shall see fit so to do, any time after March, 1836. This, too, is borrowed from the bill of 1832, and its object was fully discussed on that occasion. That object is to get rid of the circulation of all notes under five dollars, and, by so doing, to extend the specie basis of our circulation. When the States shall direct their own banks to issue no notes less than five dollars, then it is proposed that Congress shall direct the bank of the United States to issue no notes below twenty dollars: The state of our currency will then be, as I explained the other day, that, up to five dollars, the currency will be silver and gold; above five dollars, it may be silver, and gold, and notes of State banks; and above twenty dollars, silver, and gold, and notes of State banks, and notes of the Bank of the United States. This greater use of silver and gold, for common purposes, and small payments, I have thought to be a desirable object, as I have often before said.

The next section looks to the winding up of the affairs of the

Bank; and it provides that, at any time within the last three years of its continuance, its directors may divide, among the stockholders, any portion of the capital which they may have withdrawn from active operation. The remaining sections are only such as are formal and necessary: one continues the acts of Congress connected with the Bank, such as those providing for forging its notes; and the other requires the acceptance of this bill by the Bank, in order to give it validity and effect.

Such, Mr. President, are the provisions of this bill. They are few and simple.

1. The Bank is to be continued for six years.

2. The deposits are to be restored after the 1st of July.

3. Congress is to be at perfect liberty to create any new bank, at any time after March, 1836.

4. The directors, in order to wind up their concerns, may, three years before the six years expire, begin to divide the capital among the stockholders.

Mr. President, this is the measure which I propose; and it is my settled belief that, if we cannot carry this, we can carry nothing.

I have thus, Sir, stated my opinions, and discharged my duty. I see the country laboring, and struggling, and panting under an enormous political evil. I propose a remedy which I am sure will produce relief, if it be adopted, and which seems to me most likely to obtain support. And now, Sir, I put it to every member of Congress, how he can resist this measure, unless by proposing another and a better. Who, among the agents and servants of the people assembled in these Houses, is prepared, in the present distressed state of the country, to say, that he will oppose every thing, and propose nothing? For one, Sir, I can only say, that I have been driven to this proposition by an irresistible impulse of obligation to the country. If I had been suddenly called to my great reckoning in another world, I should have felt that one duty was left unattempted, if I had had no measure to recommend, no expedient to propose, no hope to hold out, to this suffering community.

As to the success of this bill, Sir, or any other, I have only to repeat what I have so often said, that every thing rests with the people themselves. In the distracted state of the public councils, any measure of relief can only be obtained by the decisive demand of the public will.

By an exercise of Executive power, which I believe to be illegal, and which all must see to have been injurious,—by an unrelenting adherence to the measure which has thus been adopted, in spite of all consequences, and by the force of those motives which influence men to support the measure, though they entirely disapprove it,—the country is brought to a condition such as it never

before witnessed, and which it cannot long bear. But it is not a condition for despair. Nothing will ruin the country, if the people themselves will undertake its safety; and nothing can save it, if *they* leave that safety in any hands but their own.

Would to God, Sir, that I could draw around me all these twelve millions of people; would to God, that I could speak audibly to every independent elector in the whole land. I would not say to them, vainly and arrogantly, that their safety and happiness required the adoption of any measure recommended by me. But I would say to them, with the sincerest conviction that ever animated man's heart, that their safety and happiness *do* require their own prompt and patriotic attention to the public concerns, their own honest devotion to the welfare of the State. I would say to them, that neither this measure, nor any measure, can be adopted, except by the cogent and persisting action of popular opinion. I would say to them, that the public revenues cannot be restored to their accustomed custody; that they cannot be again placed under the control of Congress; that the violation of law cannot be redressed, but by manifestations, not to be mistaken, of public sentiment. I would say to them, that the Constitution and the laws, their own rights and their own happiness, all depend on themselves; and if they esteem these of any value; if they were not too dearly bought by the blood of their fathers; if they be an inheritance, fit to be transmitted to their posterity,—I would beseech them—I would beseech them, to come now to their salvation.

[*The following is the bill which* Mr. WEBSTER *asked leave to introduce.*]

A Bill to continue, for the term of six years, the act entitled "An Act to incorporate the Subscribers to the Bank of the United States."

Be it enacted, &c. That the act entitled "An Act to incorporate the Subscribers to the Bank of the United States," approved on the tenth day of April, in the year one thousand eight hundred and sixteen, shall continue in full force and effect for the term of six years, from and after the period therein limited for its expiration, to wit, the third day of March, in the year one thousand eight hundred and thirty-six; and that all the rights, interests, properties, powers, and privileges, secured by the same act, with all the rules, conditions, restrictions, and duties, therein prescribed and imposed, be and remain after the said third day of March, in the year one thousand eight hundred and thirty-six, during the said six years, as if the said limitation in the said act had not been made: *Provided, nevertheless*, That so much of the said act as declares that no other bank shall be established by any future law of the United States, during the continuance of the corporation thereby created, shall not be continued by this act; but that it shall be lawful for Congress, whenever it shall see fit, to establish any other bank to come into existence and operation at any time, on or after the fourth day of March, one thousand eight hundred and thirty-six.

Sec. 2. *And be it further enacted*, That all public moneys accruing to the United States, and becoming payable from and after the passage of this act, in places where the said Bank or any of its Offices is established, shall be deposited in the Bank of the United States and its Offices as heretofore: *Provided*, That, at any time after this act shall have been accepted, Congress may, by law or joint

resolution, cause such moneys to be withdrawn and removed to any other custody or place of deposit.

Sec. 3. *And be it further enacted*, That, in consideration of the benefits and privileges conferred by this act, the said Bank shall pay to the United States the annuity or yearly sum of two hundred thousand dollars; which said sum shall be paid, by the said Bank, on the fourth day of March, in each and every year, during the said term of six years.

Sec. 4. *And be it further enacted*, That Congress may provide, by law, that the said Bank shall be restrained, at any time after the third day of March, in the year one thousand eight hundred and thirty-six, from making, issuing, or keeping in circulation, any notes or bills of said Bank, or any of its Offices, of a less sum or denomination then twenty dollars.

Sec. 5. *And be it further enacted*, That, at any time or times within the last three years of the existence of said corporation, as continued by this act, it shall be lawful for the president and directors to divide among the several stockholders thereof such portions of the capital stock of said corporation as they may have withdrawn from active use, and may judge proper so to divide.

Sec. 6. *And be it further enacted*, That so much of any act or acts of Congress, heretofore passed and now in force, supplementary to, or in any wise connected with, the said original act of incorporation, approved on the tenth day of April, in the year one thousand eight hundred and sixteen, as is not inconsistent with this act, shall be continued in full force and effect during the said six years, after the third day of March, in the year one thousand eight hundred and thirty-six.

Sec. 7. *And be it further enacted*, That it shall be the duty of the president and directors of the said Bank, on or before the first day of the next session of Congress, to signify to the President of the United States their acceptance, on behalf of the Bank of the United States, of the terms and conditions in this act contained; and if they shall fail to do so on or before the day above mentioned, then this act shall cease to be in force.

SPEECH

ON THE PRESIDENT'S PROTEST, DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 7, 1834.

Mr. President: I feel, Sir, the magnitude of this question. We are coming to a vote which cannot fail to produce important effects on the character of the Senate and the character of the Government.

Unhappily, Sir, the Senate finds itself involved in a controversy with the President of the United States; a man who has rendered most distinguished services to his country, has hitherto possessed a degree of popular favor perhaps never excelled, and whose honesty of motive, and integrity of purpose, are still maintained by those who admit that his administration has fallen into lamentable errors.

On some of the interesting questions, in regard to which the President and Senate hold opposite opinions, the more popular branch of the Legislature concurs with the Executive. It is not to be concealed that the Senate is engaged against imposing odds. It can sustain itself only by its own prudence and the justice of its cause. It has no patronage by which to secure friends; it can raise up no advocates through the dispensation of favors, for it has no favors to dispense. Its very constitution, as a body whose members are elected for a long term, is capable of being rendered obnoxious, and is daily made the subject of opprobrious remark. It is already denounced as independent of the people, and aristocratic. Nor is it, like the other House, powerful in its numbers; not being, like that, so large as that its members come constantly in direct and sympathetic contact with the whole people. Under these disadvantages, Sir, which, we may be assured, will be pressed and urged to the utmost length, there is but one course for us. The Senate must stand on its rendered reasons. It must put forth the grounds of its proceedings, and it must then rely on the intelligence and patriotism of the people to carry it through the contest.

As an individual member of the Senate, it gives me great pain to be engaged in such a conflict with the Executive Government. The occurrences of the last session are fresh in all our recollections; and, having felt it to be my duty, at that time, to give my

cordial support to highly-important measures of the Administration, I ardently hoped that nothing might occur to place me, afterwards, in an attitude of opposition. In all respects, and in every way, it would have been far more agreeable to me to have found nothing in the measures of the Executive Government which I could not cheerfully support. The present occasion of difference has not been sought or made by me. It is thrust upon me, in opposition to strong opinions and wishes, on my part not concealed. The interference with the public deposits dispelled all hope of continued concurrence with the Administration, and was a measure so uncalled for, so unnecessary, and, in my judgment, so illegal and indefensible, that, with whatever reluctance it might be opposed, opposition was unavoidable.

The paper before us has grown out of the consequences of this interference. It is a paper which cannot be treated with indifference. The doctrines which it advances, the circumstances which have attended its transmission to the Senate, and the manner in which the Senate may now dispose of it, will form a memorable era in the history of the Government. We are either to enter it on our journals, assent to its sentiments, and submit to its rebuke, or we must answer it, with the respect due to the Chief Magistrate, but with such animadversion on its doctrines as they deserve, and with the firmness imposed upon us by our public duties.

I shall proceed, then, Sir, to consider the circumstances which gave rise to this Protest; to examine the principles which it attempts to establish; and to compare those principles with the Constitution and the laws.

On the 28th day of March, the Senate adopted a resolution declaring that, "*in the late Executive proceedings in relation to the public revenue, the President had assumed a power not conferred by the Constitution and laws, but in derogation of both.*" In that resolution I concurred.

It is not a direct question, now again before us, whether the President really had assumed such illegal power: that point is decided, so far as the Senate ever can decide it. But the Protest denies that, supposing the President to have assumed such illegal power, the Senate could properly pass the resolution; or, what is the same thing, it denies that the Senate could, in this way, express any opinion about it. It denies that the Senate has any right, by resolution, in this or any other case, to express disapprobation of the President's conduct, let that conduct be what it may; and this, one of the leading doctrines of the Protest, I propose to consider. But, as I concurred in the resolution of the 28th of March, and did not trouble the Senate, at that time, with any

statement of my own reasons, I will avail myself of this opportunity to explain, shortly, what those reasons were.

In the first place, then, I have to say, that I did not vote for the resolution on the mere ground of the removal of Mr. Duane from the office of Secretary of the Treasury. Although I disapprove of the removal altogether, yet the power of removal does exist in the President, according to the established construction of the Constitution; and therefore, although, in a particular case, it may be abused, and, in my opinion, was abused in this case, yet its exercise cannot be justly said to be an assumption or usurpation. We must all agree that Mr. Duane is out of office. He has, therefore, been removed by a power Constitutionally competent to remove him, whatever may be thought of the exercise of that power, under the circumstances of the case.

If, then, the act of removing the Secretary be not the assumption of power which the resolution declares, in what is that assumption found? Before giving a precise answer to this inquiry, allow me to recur to some of the principal previous events.

At the end of the last session of Congress, the public moneys of the United States were still in their proper place. That place was fixed by the law of the land, and no power of change was conferred on any other human being than the Secretary of the Treasury. On him the power of change was conferred, to be exercised by himself, if emergency should arise, and to be exercised for reasons which he was bound to lay before Congress. No other officer of the Government had the slightest pretence of authority to lay his hand on these moneys for the purpose of changing the place of their custody. All the other heads of departments together could not touch them. The President could not touch them. The power of change was a trust confided to the discretion of the Secretary, and to his discretion alone. The President had no more authority to take upon himself this duty, thus assigned expressly by law to the Secretary, than he had to make the annual report to Congress, or the annual commercial statements, or to perform any other service which the law specially requires of the Secretary. He might just as well sign the warrants for moneys, in the ordinary daily disbursements of Government, instead of the Secretary. The statute had assigned the especial duty of removing the deposits, if removed at all, to the Secretary of the Treasury, and to him alone. The consideration of the propriety, or necessity of removal, must be the consideration of the Secretary; the decision to remove, his decision; and the act of removal, his act.

Now, Sir, on the 18th day of September last, a resolution was taken to remove these deposits from their legislative (that is to

say, their legal) custody. *Whose resolution was this?* On the 1st day of October, they were removed. And *by whose power was this done?* The papers necessary to accomplish the removal (that is, the orders and drafts) are, it is true, signed by the Secretary. The President's name does not appear to them; nor does the Secretary, in any of them, recite or declare that he does the act by direction of the President, or on the President's responsibility. In form, the whole proceeding is the proceeding of the Secretary, and, as such, had the legal effect. The deposits were removed. But whose act was it, in truth and reality? Whose will accomplished it? *On whose responsibility was it adopted?*

These questions are all explicitly answered by the President himself, in the paper, under his own hand, read to the Cabinet on the 18th of September, and published by his authority. In this paper the President declares, in so many words, *that he begs his Cabinet to consider the proposed measure as his own; that its responsibility has been assumed by him; and that he names the first day of October as a period proper for its execution.*

Now, Sir, it is precisely this which I deem an assumption of power not conferred by the Constitution and laws. I think the law did not give this authority to the President, nor impose on him the responsibility of its exercise. It is evident that, in this removal, the Secretary was in reality nothing but the scribe: he was the pen in the President's hand, and no more. Nothing depended on his discretion, his judgment, or his responsibility. The removal, indeed, has been admitted and defended in the Senate, as the direct act of the President himself. This, Sir, is what I call assumption of power. If the President had issued an order for the removal of the deposits in his own name, and under his own hand, it would have been an illegal order, and the Bank would not have been at liberty to obey it. For the same reason, if the Secretary's order had recited that it was issued by the President's direction, and on the President's authority, it would have shown, on its face, that it was illegal and invalid. No one can doubt that. The act of removal, to be lawful, must be the *bona fide* act of the Secretary; *his* judgment, the result of *his* deliberations, the volition of *his* mind. All are able to see the difference between the power to remove the Secretary from office, and the power to control him, in all or any of his duties, while in office. The law charges the officer, whoever he may be, with the performance of certain duties. The President, with the consent of the Senate, appoints an individual to be such officer; and this individual he may remove, if he so please; but, until removed, he is the officer, and remains charged with the duties of his station—duties which nobody else can perform, and for the neglect or violation of which he is liable to be impeached.

The distinction is visible and broad between the power of removal and the power to control an officer not removed. The President, it is true, may terminate his political life; but he cannot control his powers and functions, and act upon him as a mere machine, while he is allowed to live. This power of control and direction, no where given, certainly, by any express provision of the Constitution or laws, is derived, by those who maintain it, from the right of removal; that is to say, it is a constructive power. But the right of removal itself is but a constructive power: it has no express warrant in the Constitution. A very important power, then, is raised by construction, in the first place; and, being thus raised, it becomes a fountain, out of which other important powers, raised also by construction, are to be supplied. There is no little danger that such a mode of reasoning may be carried too far. It cannot be maintained that the power of direct control necessarily flows from the power of removal. Suppose it had been decided in 1789, when the question was debated, that the President does not possess the power of removal; will it be contended, that, in that case, his right of interference with the acts and duties of executive officers would be less than it now is? The reason of the thing would seem to be the other way. If the President may remove an incumbent when he becomes satisfied of his unfaithfulness and incapacity, there would appear to be less necessity to give him also a right of control, than there would be if he could not remove him.

We may try this question by supposing it to arise in a judicial proceeding. If the Secretary of the Treasury were impeached for removing the deposits, could he justify himself by saying that he did it by the President's direction? If he could, then no executive officer could ever be impeached, who obeys the President; and the whole notion of making such officers impeachable at all would be farcical. If he could not so justify himself (and all will allow he could not), the reason can only be that the act of removal is his own act; the power, a power confided to him, for the just exercise of which the law looks to his discretion, his honesty, and his direct responsibility.

Now, Sir, the President wishes the world to understand that he himself decided on the question of the removal of the deposits; that he took the whole responsibility of the measure upon himself; that he wished it to be considered *his own act;* that he not only himself decided that the thing should be done, but that he regulated its details also, and named the day for carrying it into effect.

I have always entertained a very erroneous view of the partition of powers, and of the true nature of official responsibility

under our Constitution, if this be not a plain case of the assumption of power.

The Legislature had fixed a place, by law, for the keeping of the public money. They had, at the same time, and by the same law, created and conferred a power of removal, to be exercised contingently. This power they had vested in the Secretary, by express words. The law did not say that the deposits should be made in the Bank, unless the President should order otherwise; but it did say that they should be made there, *unless the Secretary of the Treasury should order otherwise.* I put it to the plain sense and common candor of all men, whether the discretion which was thus to be exercised over the subject was not the Secretary's own personal discretion; and whether, therefore, the interposition of the authority of another, acting directly and conclusively on the subject, deciding the whole question, even in its particulars and details, be not an assumption of power?

The Senate regarded this interposition as an encroachment, by the Executive, on other branches of the Government; as an interference with the legislative disposition of the public treasure. It was strongly and forcibly urged, yesterday, by the honorable member from South Carolina, that the true and only mode of preserving any balance of power, in mixed governments, is to keep an exact balance. This is very true, and to this end encroachment must be resisted at the first step. The question is, therefore, whether, upon the true principles of the Constitution, this exercise of power by the President can be justified. Whether the consequences be prejudicial or not, if there be an illegal exercise of power, it is to be resisted in the proper manner. Even if no harm or inconvenience result from transgressing the boundary, the intrusion is not to be suffered to pass unnoticed. Every encroachment, great or small, is important enough to awaken the attention of those who are intrusted with the preservation of a Constitutional government. We are not to wait till great public mischiefs come, till the Government is overthrown, or liberty itself put in extreme jeopardy. We should not be worthy sons of our fathers, were we so to regard great questions affecting the general freedom. Those fathers accomplished the revolution on a strict question of principle. The Parliament of Great Britain asserted a right to tax the colonies in all cases whatsoever; and it was precisely on this question that they made the revolution turn. The amount of taxation was trifling, but the claim itself was inconsistent with liberty; and that was, in their eyes, enough. It was against the recital of an act of Parliament, rather than against any suffering under its enactments, that they took up arms. They went to war against a preamble. They fought seven years against a declaration. They poured out their treasures and their

blood like water, in a contest in opposition to an assertion which those less sagacious, and not so well schooled in the principles of civil liberty, would have regarded as barren phraseology, or mere parade of words. They saw in the claim of the British Parliament, a seminal principle of mischief, the germ of unjust power; they detected it, dragged it forth from underneath its plausible disguises, struck at it; nor did it elude either their steady eye, or their well-directed blow, till they had extirpated and destroyed it, to the smallest fibre. On this question of principle, while actual suffering was yet afar off, they raised their flag against a power, to which, for purposes of foreign conquest and subjugation, Rome, in the height of her glory, is not to be compared—a power which has dotted over the surface of the whole globe with her possessions and military posts, whose morning drum-beat, following the sun, and keeping company with the hours, circles the earth daily with one continuous and unbroken strain of the martial airs of England.

The necessity of holding strictly to the principle upon which free governments are constructed, and to the precise lines which fix the partitions of power between different branches, is as plain, if not as cogent, as that of resisting, as our fathers did, the strides of the parent country upon the rights of the colonies; because, whether the power which exceeds its just limits be foreign or domestic, whether it be the encroachment of all branches on the rights of the people, or that of one branch on the rights of others, in either case the balanced and well-adjusted machinery of free government is disturbed, and, if the derangement go on, the whole system must fall.

But the case before us is not a case of merely theoretic infringement; nor is it one of trifling importance. Far otherwise. It respects one of the highest and most important of all the powers of Government; that is to say, the custody and control of the public money. The act of removing the deposits, which I now consider as the President's act, and which his friends on this floor defend as his act, took the national purse from beneath the security and guardianship of the law, and disposed of its contents, in parcels, in such places of deposit as he chose to select. At this very moment, every dollar of the public treasure is subject, so far as respects its custody and safe keeping, to his unlimited control. We know not where it is to-day; still less do we know where it may be to-morrow.

But, Mr. President, this is not all. There is another part of the case, which has not been so much discussed, but which appears to me to be still more indefensible in its character. It is something which may well teach us the tendency of power to move forward, with accelerated pace, if it be allowed to take the first step. The

Bank of the United States, in addition to the services rendered to the treasury, gave for its charter, and for the use of the public deposits, a *bonus*, or outright sum of one million and a half of dollars. This sum was paid by the Bank into the treasury, soon after the commencement of its charter. In the act which passed both Houses for renewing the charter, in 1832, it was provided that the Bank, for the same consideration, should pay two hundred thousand dollars a year, during the period for which it was proposed to renew it. A similar provision is in the bill which I asked leave to introduce some weeks ago. Now, Sir, this shows that the custody of the deposits is a benefit, for which a bank may well afford to pay a large annual sum. The banks which now hold the deposits pay nothing to the public; they give no *bonus*, they pay no annuity. But this loss of so much money is not the worst part of the case, nor that which ought most to alarm us. Although they pay nothing to the public, they do pay, nevertheless, such sums, and for such uses, as may be agreed upon *between themselves and the Executive Government.* We are officially informed that an officer is appointed by the Secretary of the Treasury to inspect or superintend these selected banks; and this officer is compensated by a salary fixed by the Executive, agreed to by the banks, and paid by them. I ask, Sir, if there can be a more irregular, or a more illegal transaction than this? Whose money is it, out of which this salary is paid? Is it not money justly due to the United States, and paid, because it is so due, for the advantage of holding the deposits? If a dollar is received on that account, is not its only true destination into the general treasury of the Government? And who has authority, without law, to create an office, to fix a salary, and to pay that salary out of this money? Here is an inspector, or supervisor of the deposit banks. But what law has provided for such an officer? What commission has he received? Who concurred in his appointment? What oath does he take? How is he to be punished, or impeached, if he colludes with any of these banks to embezzle the public money, or defraud the Government? The value of the use of this public money to the deposit banks is probably two hundred thousand dollars a year; or, if less than that, it is yet, certainly, a very great sum. May the President appoint whatever officers he pleases, with whatever duties he pleases, and pay them as much as he pleases *out of these moneys thus paid by the banks, for the sake of having the deposits?*

Mr. President, the Executive claim of power is exactly this, that the President may keep the money of the public in whatever banks he chooses, on whatever terms he chooses, and to apply the sums which these banks are willing to pay for its use to whatever purposes he chooses. These sums are not to come into the general treasury. They are to be appropriated before they get there;

they are never to be brought under the control of Congress; they are to be paid to officers and agents not known to the law, not nominated to the Senate, and responsible to nobody but the Executive itself. I ask gentlemen if all this be lawful? Are they prepared to defend it? Will they stand up and justify it? In my opinion, Sir, it is a clear and a most dangerous assumption of power. It is the creation of office without law; the appointment to office without consulting the Senate; the establishment of a salary without law; and the payment of that salary out of a fund which itself is derived from the use of the public treasures. This, Sir, is my other reason for concurring in the vote of the 28th of March; and on these grounds I leave the propriety of that vote, so far as I am concerned with it, to be judged of by the country.

But, Sir, the President denies the power of the Senate to pass any such resolution, on any ground whatever. Suppose the declaration contained in the resolution to be true; suppose the President had, in fact, assumed powers not granted to him; does the Senate possess the right to declare its opinion, affirming this fact, or does it not? I maintain the Senate does possess such a power: the President denies it.

Mr. President, we need not look far, nor search deep, for the foundation of this right in the Senate. It is clearly visible, and close at hand. In the first place, it is the right of self-defence. In the second place, it is a right founded on the duty of representative bodies, in a free government, to defend the public liberty against encroachment. We must presume that the Senate honestly entertained the opinion expressed in the resolution of the 28th of March; and, entertaining that opinion, its right to express it is but the necessary consequence of its right to defend its own Constitutional authority, as one branch of the Government. This is its clear right, and this, too, is its imperative duty.

If one, or both, the other branches of the Government happen to do that which appears to us inconsistent with the Constitutional rights of the Senate, will any one say that the Senate is yet bound to be passive, and to be silent? to do nothing, and to say nothing? Or, if one branch appears to encroach on the rights of the other two, have these two no power of remonstrance, complaint, or resistance? Sir, the question may be put in a still more striking form. Has the Senate a right *to have an opinion* in a case of this kind? If it may have an opinion, how is that opinion to be ascertained but by resolution and vote? The objection must go the whole length; it must maintain that the Senate has not only no right to express opinions, but no right to form opinions, on the conduct of the Executive Government, though in matters intimately affecting the powers and duties of the Senate itself. It is not possible, Sir, that such a doctrine can be

maintained for a single moment. All political bodies resist what they deem encroachments, by resolutions expressive of their sentiments, and their purpose to resist such encroachments. When such a resolution is presented for its consideration, the question is, whether it be true; not whether the body has authority to pass it, admitting it to be true. The Senate, like other public bodies, is perfectly justifiable in defending, in this mode, either its legislative or executive authority. The usages of Parliament, the practice in our State Legislatures and Assemblies, both before and since the revolution, and precedents in the Senate itself, fully maintain this right. The case of the Panama mission is in point. In that case, Mr. Branch, from North Carolina, introduced a resolution, which, after reciting that the President, in his annual message, and in his communication to the Senate, had asserted that he possessed an authority to make certain appointments, *although the appointments had not been made*, went on to declare that "*a silent acquiescence, on the part of this body, may, at some future time, be drawn into dangerous precedent;*" and to resolve, therefore, that the President does not possess the right or power said to be claimed by him. This resolution was discussed, and finally laid on the table. But the question discussed was, whether the resolution was correct, in fact and principle; not whether the Senate had any right to pass such resolution. So far as I remember, no one pretended that, if the President had exceeded his authority, the Senate might not so declare by resolution. No one ventured to contend that, whether the rights of the Senate were invaded or not, the Senate must hold its peace.

The Protest labors strenuously to show that the Senate adopted the resolution of the 28th of March, under its *judicial* authority. The reason of this attempt is obvious enough. If the Senate, in its judicial character, has been trying the President, then he has not had a regular and formal trial; and, on that ground, it is hoped the public sympathy may be moved. But the Senate has acted not in its judicial, but in its legislative capacity. As a legislative body, it has defended its own just authority, and the authority of the other branch of the Legislature. Whatever attacks our own rights and privileges, or whatever encroaches on the power of both Houses, we may oppose and resist, by declaration, resolution, or other similar proceedings. If we look to the books of precedents, if we examine the journals of legislative bodies, we find every where instances of such proceedings.

It is to be observed, Sir, that the protest imposes silence on the House of Representatives as well as on the Senate. It declares that no power is conferred on either branch of the Legislature, to consider or decide upon official acts of the Executive, for the purpose of censure, and without a view to legislation or impeach-

ment. This, I think, Sir, is pretty high-toned pretension. According to this doctrine, neither House can assert its own rights, however the Executive might assail them; neither House could point out the danger to the people, however fast Executive encroachment might be extending itself, or whatever danger it might threaten to the public liberties. If the two Houses of Congress may not express an opinion of Executive conduct by resolution, there is the same reason why they should not express it in any other form, or by any other mode of proceeding. Indeed, the Protest limits both Houses, expressly, to the case of impeachment. If the House of Representatives are not about to impeach the President, they have nothing to say of his measures or of his conduct; and unless the Senate are engaged in trying an impeachment, their mouths, too, are stopped. It is the practice of the Executive to send us an annual message, in which he rehearses the general proceedings of the Executive for the past year. This message we refer to our committees for consideration. But, according to the doctrine of the Protest, they can express no opinion upon any Executive proceeding, upon which it gives information. Suppose the President had told us, in his last annual message, what he had previously told us in his Cabinet paper, that the removal of the deposits was *his* act, done on *his* responsibility; and that the Secretary of the Treasury had exercised no discretion, formed no judgment, presumed to have no opinion whatever, on the subject. This part of the message would have been referred to the Committee on Finance; but what could they say? They think it shows a plain violation of the Constitution and the laws; but the President is not impeached; therefore they can express no censure. They think it a direct invasion of legislative power, but they must not say so. They may, indeed, commend, if they can. The grateful business of praise is lawful to them; but if, instead of commendation and applause, they find cause for disapprobation, censure, or alarm, the Protest enjoins upon them absolute silence.

Formerly, Sir, it was a practice for the President to meet both Houses, at the opening of the session, and deliver a speech, as is still the usage of some of the State Legislatures. To this speech there was an answer from each House, and those answers expressed, freely, the sentiments of the House upon all the merits and faults of the Administration. The discussion of the topics contained in the speech, and the debate on the answers, usually drew out the whole force of parties, and lasted sometimes a week. President Washington's conduct, in every year of his administration, was thus freely and publicly canvassed. He did not complain of it; he did not doubt that both Houses had a perfect right to comment, with the utmost latitude, consistent with decorum, upon all his

measures. Answers, or amendments to answers, were not unfrequently proposed, very hostile to his own course of public policy, if not sometimes bordering on disrespect. And when they did express respect and regard, there were votes ready to be recorded against the expression of those sentiments. To all this President Washington took no exception; for he well knew that these, and similar proceedings, belonged to the power of popular bodies. But if the President were now to meet us with a speech, and should inform us of measures, adopted by himself in the recess, which should appear to us the most plain, palpable, and dangerous violations of the Constitution, we must, nevertheless, either keep respectful silence, or fill our answer merely with courtly phrases of approbation.

Mr. President, I know not who wrote this Protest, but I confess I am astonished, truly astonished, as well at the want of knowledge which it displays of Constitutional law, as at the high and dangerous pretensions which it puts forth. Neither branch of the Legislature can express censure upon the President's conduct! Suppose, Sir, that we should see him enlisting troops, and raising an army, can we say nothing, and do nothing? Suppose he were to declare war against a foreign power, and put the army and the fleet in action; are we still to be silent? Suppose we should see him *borrowing money on the credit of the United States;* are we yet to wait for impeachment? Indeed, Sir, in regard to this borrowing money on the credit of the United States, I wish to call the attention of the Senate not only to what might happen, but to what has actually happened. We are informed that the Post-Office Department, a department over which the President claims the same control as over the rest, *has actually borrowed near half a million of money on the credit of the United States.*

Mr. President, the first power granted to Congress by the Constitution is the power to lay taxes; the second, the power to borrow money on the credit of the United States. Now, Sir, where does the Executive find its authority, in or through any department, to borrow money without authority of Congress? This proceeding appears to me wholly illegal, and reprehensible in a very high degree. It may be said that it is not true that this money is borrowed on the credit of the United States, but that it is borrowed on the credit of the Post-Office Department. But that would be mere evasion. The department is but a name. It is an office, and nothing more. The banks have not lent this money to any officer. If Congress should abolish the whole department tomorrow, would the banks not expect the United States to replace this borrowed money? The money, then, is borrowed on the credit of the United States—an act which Congress alone is competent to authorize. If the Post-Office Department may borrow

money, so may the War Department, and the Navy Department If half a million may be borrowed, ten millions may be borrowed. What, then, if this transaction shall be justified, is to hinder the Executive from borrowing money, to maintain fleets and armies, or for any other purpose, at his pleasure, without any authority of law? Yet, even this, according to the doctrine of the Protest, we have no right to complain of. We have no right to declare that an executive department has violated the Constitution and broken the law, by borrowing money on the credit of the United States. Nor could we make a similar declaration, if we were to see the Executive, by means of this borrowed money, enlisting armies and equipping fleets. And yet, Sir, the President has found no difficulty, heretofore, in expressing his opinions, *in a paper, not called for by the exercise of any official duty*, upon the conduct and proceedings of the two Houses of Congress. At the commencement of this session, he sent us a message, commenting on the land bill, which the two Houses passed at the end of the last session. That bill he had not approved, nor had he returned it with objections. Congress was dissolved; and the bill, therefore, was completely dead, and could not be revived. No communication from him could have the least possible effect as an official act. Yet he saw fit to send a message on the subject, and in that message he very freely declares his opinion that the bill which had passed both Houses *began with an entire subversion of every one of the compacts by which the United States became possessed of their western domain;* that one of its provisions *was in direct and undisguised violation of the pledge given by Congress to the States;* that the Constitution provides that these compacts shall be untouched by the legislative power, which can only make needful rules and regulations; and that all beyond that is *an assumption of undelegated* power.

These are the terms in which the President speaks of an act of the two Houses; in no official paper, in no communication which it was necessary for him to make to them; but in a message, adopted only as a mode through which to make public these opinions. After this, it would seem too late to enjoin on the Houses of Congress a total forbearance from all comment on the measures of the Executive.

Not only is it the right of both Houses, or of either, to resist, by vote, declaration, or resolution, whatever it may deem an encroachment of Executive power, but it is also undoubtedly the right of either House to oppose, in like manner, any encroachment by the other. The two Houses have each its own appropriate powers and authorities, which it is bound to preserve. They have, too, different constituents. The members of the Senate are representatives of States; and it is in the Senate alone that the four-

and-twenty States, as political bodies, have a direct influence in the legislative and executive powers of this Government. He is a strange advocate of State rights, who maintains that this body, thus representing the States, and thus being the strictly federal branch of the Legislature, may not assert and maintain all and singular its own powers and privileges, against either or both of the other branches.

If any thing be done or threatened derogatory to the rights of the States, as secured by the organization of the Senate, may we not lift up our voices against it? Suppose the House of Representatives should vote that the Senate ought not to propose amendments to revenue bills; would it be the duty of the Senate to take no notice of such proceeding? Or, if we were to see the President issuing commissions to office to persons who had never been nominated to the Senate, are we not to remonstrate?

Sir, there is no end of cases, no end of illustrations. The doctrines of the Protest, in this respect, cannot stand the slightest scrutiny; they are blown away by the first breath of discussion.

And yet, Sir, it is easy to perceive why this right of declaring its sentiments, respecting the conduct of the Executive, is denied to either House, in its legislative capacity. It is merely that the Senate might be presented in the odious light of *trying* the President, judicially, without regular accusation or hearing. The Protest declares that the President is *charged with a crime, and, without hearing or trial, found guilty and condemned.* This is evidently an attempt to appeal to popular feeling, and to represent the President as unjustly treated and unfairly tried. Sir, it is a false appeal. The President has not been tried at all; he has not been accused; he has not been charged with crime; he has not been condemned. Accusation, trial and sentence are terms belonging to judicial proceedings. But the Senate has been engaged in no such proceeding. The resolution of the 28th of March was not an exercise of judicial power, either in form, in substance, or in intent. Every body knows that the Senate can exercise no judicial power until articles of impeachment are brought before it. It is then to proceed, by accusation and answer, hearing, trial, and judgment. But there has been no impeachment, no answer, no hearing, no judgment. All that the Senate did was to pass a resolution, in legislative form, declaring its opinion of certain acts of the Executive. This resolution imputed no crime; it charged no corrupt motive; it proposed no punishment. It was directed, not against the President, personally, but against the act; and that act it declared to be, in its judgment, an assumption of authority not warranted by the Constitution.

It is in vain that the Protest attempts to shift the resolution on to the judicial character of the Senate. The case is too plain for

such an argument to be plausible. But, in order to lay some foundation for it, the Protest, as I have already said, contends that neither the Senate, nor the House of Representatives, can express its opinions on the conduct of the President, except in some form connected with impeachment; so that if the power of impeachment did not exist, these two Houses, though they be representative bodies; though one of them be filled by the immediate representatives of the people; though they be constituted like other popular and representative bodies,—could not utter a syllable, although tney saw the Executive either trampling on their own rights and privileges, or grasping at absolute authority and dominion over the liberties of the country! Sir, I hardly know how to speak of such claims of impunity for Executive encroachment. I am amazed that any American citizen should draw up a paper containing such lofty pretensions—pretensions which would have been met with scorn, in England, at any time since the revolution of 1688. A man who should stand up, in either House of the British Parliament, to maintain that the House could not, by vote or resolution, maintain its own rights and privileges, would make even the tory benches hang their heads for very shame. There was, indeed, a time when such proceedings were not allowed. Some of the kings of the Stuart race would not tolerate them. A signal instance of royal displeasure with the proceedings of Parliament occurred in the latter part of the reign of James the First. The House of Commons had spoken, on some occasion, "*of its own undoubted rights and privileges.*" The king thereupon sent them a letter, declaring that *he would not allow that they had any undoubted rights; but that what they enjoyed they might still hold by his own royal grace and permission.* Sir Edward Coke and Mr. Granville were not satisfied with this title to their privileges; and, under their lead, the House entered on its journals a resolution, asserting its privileges, *as its own undoubted right*, and manifesting a determination to maintain them as such. This, says the historian, so enraged his majesty, that he sent for the journal, had it brought into the council, and there, in the presence of his lords and great officers of state, tore out the offensive resolution with his own royal hand. He then dissolved Parliament, and sent its most refractory members to the Tower. I have no fear, certainly, Sir, that this English example will be followed, on this occasion, to its full extent; nor would I insinuate that any thing outrageous has been thought of, or intended, except outrageous pretensions; but such pretensions I must impute to the author of this Protest, whoever that author be.

When this and the other House shall lose the freedom of speech and debate; when they shall surrender the rights of publicly and freely canvassing all important measures of the Executive; when

they shall not be allowed to maintain their own authority and their own privileges by vote, declaration, or resolution,—they will then be no longer free representatives of a free people, but slaves themselves, and fit instruments to make slaves of others.

The Protest, Mr. President, concedes what it doubtless regards as a liberal right of discussion to the people themselves. But its language, even in acknowledging this right of the *people* to discuss the conduct of their servants, is qualified and peculiar. The free people of the United States, it declares, have an undoubted right to discuss the official conduct of the President, in such language and form as they may think proper, "*subject only to the restraints of truth and justice.*" But, then, who is to be judge of this truth and justice? Are the people to judge for themselves, or are others to judge for them? The Protest is here speaking of *political* rights, and not moral rights; and if restraints are imposed on *political* rights, it must follow, of course, that others are to decide, whenever the case arises whether these restraints have been violated. It is strange that the writer of the Protest did not perceive that, by using this language, he was pushing the President into a direct avowal of the doctrines of 1798? The text of the Protest and the text of the obnoxious act of that year are nearly identical.

But, Sir, if the people have a right to discuss the official conduct of the Executive, so have their representatives. We have been taught to regard a representative of the people as a sentinel on the watch-tower of liberty. Is he to be blind, though visible danger approaches? Is he to be deaf, though sounds of peril fill the air? Is he to be dumb, while a thousand duties impel him to raise the cry of alarm? Is he not, rather, to catch the lowest whisper which breathes intention or purpose of encroachment on the public liberties, and to give his voice breath and utterance at the first appearance of danger? Is not his eye to traverse the whole horizon with the keen and eager vision of an unhooded hawk, detecting, through all disguises, every enemy advancing, in any form, towards the citadel which he guards? Sir, this watchfulness for public liberty; this duty of foreseeing danger and proclaiming it; this promptitude and boldness in resisting attacks on the Constitution from any quarter; this defence of established landmarks; this fearless resistance of whatever would transcend or remove them,—all belong to the representative character, are interwoven with its very nature, and of which it cannot be deprived, without converting an active, intelligent, faithful agent of the people into an unresisting and passive instrument of power. A representative body, which gives up these rights and duties, gives itself up. It is a representative body no longer. It has broken the tie between itself and its constituents, and henceforth is fit only to be regarded

as an inert, self-sacrificed mass, from which all appropriate principle of vitality has departed forever.

I have thus endeavored to vindicate the right of the Senate to pass the resolution of the 28th of March, notwithstanding the denial of that right in the Protest.

But there are other sentiments and opinions expressed in the Protest, of the very highest importance, and which demand nothing less than our utmost attention.

The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretence of a desire to simplify government. The simplest governments are despotisms; the next simplest, limited monarchies; but all republics, all governments of law, must impose numerous limitations and qualifications of authority, and give many positive and many qualified rights. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit; it is a cautious, sagacious, discriminating, far-seeing intelligence; it is jealous of encroachment, jealous of power, jealous of man. It demands checks; it seeks for guards; it insists on securities; it entrenches itself behind strong defences, and fortifies, with all possible care, against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic purpose, come along with it. Neither does it satisfy itself with flashy and temporary resistance to illegal authority. Far otherwise. It seeks for duration and permanence. It looks before and after; and, building on the experience of ages which are past, it labors diligently for the benefit of ages to come. This is the nature of constitutional liberty; and this is *our* liberty, if we will rightly understand and preserve it. Every free government is necessarily complicated, because all such governments establish restraints, as well on the power of government itself, as on that of individuals. If we will abolish the distinction of branches, and have but one branch; if we will abolish jury trials, and leave all to the judge; if we will then ordain that the legislator shall himself be that judge; and if we will place the executive power in the same hands,—we may readily simplify government. We may easily bring it to the simplest of all possible forms—a pure despotism. But a separation of departments, so far as practicable, and the preservation of clear lines of division between them, is the fundamental idea in the creation of all our constitutions; and, doubtless, the continuance of regulated liberty depends on maintaining these boundaries.

In the progress, Sir, of the Government of the United States, we seem exposed to two classes of dangers or disturbances; one external, the other internal. It may happen that collisions arise between this Government and the governments of the States. That case belongs to the first class. A memorable instance of this kind existed last year. It was my conscientious opinion, on that occasion, that the authority claimed by an individual State was subversive of the just powers of this Government, and, indeed, incompatible with its existence. I gave a hearty coöperation, therefore, to measures which the crisis seemed to require. We have now before us what appears, to my judgment, to be an instance of the latter kind. A contest has arisen between different branches of the same Government, interrupting their harmony, and threatening to disturb their balance. It is of the highest importance, therefore, to examine the question carefully, and to decide it justly.

The separation of the powers of government into three departments, though all our constitutions profess to be founded on it, has, nevertheless, never been perfectly established in any government of the world, and, perhaps, never can be. The general principle is of inestimable value, and the leading lines of distinction sufficiently plain; yet there are powers of so undecided a character, that they do not seem necessarily to range themselves under either head. And most of our constitutions, too, having laid down the general principle, immediately create exceptions. There do not exist in the general science of government, or the received maxims of political law, such precise definitions as enable us always to say of a given power whether it be legislative, executive, or judicial. And this is one reason, doubtless, why the Constitution, in conferring power on all the departments, proceeds not by general definition, but by specific enumeration. And, again, it grants a power in general terms, but yet, in the same, or some other article or section, imposes a limitation or qualification on the grant; and the grant and the limitation must, of course, be construed together. Thus the Constitution says that all legislative power, therein granted, shall be vested in Congress, which Congress shall consist of a Senate and House of Representatives; and yet, in another article, it gives to the President a qualified negative over all acts of Congress. So the Constitution declares that the judicial power shall be vested in one Supreme Court, and such inferior courts as Congress may establish. It gives, nevertheless, in another provision, judicial power to the Senate; and, in like manner, though it declares that the executive power shall be vested in the President, using, in the immediate context, no words of limitation, yet it elsewhere subjects the treaty-making power, and the appointing power, to the concurrence of the Senate. The irresistible inference, from these considerations, is, that the mere nomination of a depart-

ment, as one of the three great and commonly-acknowledged departments of Government, does not confer on that department any power at all. Notwithstanding the departments are called the legislative, the executive, and the judicial, we must yet look into the provisions of the Constitution itself, in order to learn, first, what powers the Constitution regards as legislative, executive, and judicial; and, in the next place, what portions or quantities of these powers are conferred on the respective departments; because no one will contend that *all* legislative power belongs to Congress, *all* executive power to the President, or *all* judicial power to the courts of the United States.

The three first articles of the Constitution, as all know, are employed in prescribing the organization, and enumerating the powers, of the three departments. The first article treats of the Legislature, and its first section is—"All legislative power, *herein granted*, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

The second article treats of the executive power, and its first section declares that "the executive power shall be vested in a President of the United States of America."

The third article treats of the judicial power, and its first section declares that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish."

It is too plain to be doubted, I think, Sir, that these descriptions of the persons or officers, in whom the executive and the judicial powers are to be vested, no more define the extent of the grant of those powers, than the words quoted from the first article describe the extent of the legislative grant to Congress. All these several titles, heads of articles, or introductory clauses, with the general declarations which they contain, serve to designate the departments, and to mark the general distribution of powers; but in all the departments, in the executive and judicial as well as in the legislative, it would be unsafe to contend for any specific power under such clauses.

If we look into the State constitutions, we shall find the line of distinction between the departments still less perfectly drawn, although the general principle of the distinction is laid down in most of them, and, in some of them, in very positive and emphatic terms. In some of these States, notwithstanding the principle of distribution is adopted and sanctioned, the Legislature appoints the judges; and in others it appoints both the governor and the judges; and in others, again, it appoints not only the judges, but all other officers.

The inferences which, I think, follow from these views of the subject, are two: First, that the denomination of a department

does not fix the limits of the powers conferred on it, nor even their exact nature; and, second (which, indeed, follows from the first), that, in our American governments, the chief executive magistrate does not necessarily, and by force of his general character of supreme executive, possess the appointing power. He may have it, or he may not, according to the particular provisions applicable to each case, in the respective constitutions.

The President appears to have taken a different view of this subject. He seems to regard the appointing power as originally and inherently in the Executive, and as remaining absolute in his hands, except so far as the Constitution restrains it. This I do not agree to, and shall have occasion hereafter to examine the question further. I have intended, thus far, only to insist on the high and indispensable duty of maintaining the division of power, *as the Constitution has marked that division out*, and to oppose claims of authority not founded on express grants or necessary implication, but sustained merely by argument, or inference, from names or denominations given to departments.

Mr. President, the resolutions now before us declare, that the Protest asserts powers as belonging to the President, inconsistent with the authority of the two Houses of Congress, and inconsistent with the Constitution; and that the Protest itself is a breach of privilege.. I believe all this to be true.

The doctrines of the Protest are inconsistent with the authority of the two Houses, because, in my judgment, they deny the just extent of the law-making power. I take the Protest as it was sent to us, without inquiring how far the subsequent message has modified or explained it. It is singular, indeed, that a paper, so long in preparation, so elaborate in composition, and which is put forth for so high a purpose as the Protest avows, should not be able to stand an hour's discussion, before it became evident that it was indispensably necessary to alter or explain its contents. Explained or unexplained, however, the paper contains sentiments which justify us, as I think, in adopting these resolutions.

In the first place, I think the Protest a clear breach of privilege. It is a reproof, or rebuke, of the Senate, in language hardly respectful, for the exercise of a power clearly belonging to it as a legislative body. It entirely misrepresents the proceedings of the Senate. I find this paragraph in it, among others of a similar tone and character—"A majority of the Senate, whose interference with the preliminary question has, for the best of all reasons, been studiously excluded, anticipate the action of the House of Representatives, assume not only the function which belongs, exclusively, to that body, but convert themselves into accusers, witnesses, counsel and judges, and prejudge the whole case; thus presenting the appalling spectacle, in a free State, of

judges going through a labored preparation for an impartial hearing and decision, by a previous *ex parte* investigation and sentence against the supposed offender."

Now, Sir, this paragraph, I am bound to say, is a total misrepresentation of the proceedings of the Senate. A majority of the Senate have not anticipated the House of Representatives; they have not assumed the functions of that body; they have not converted themselves into accusers, witnesses, counsel, or judges; they have made no *ex parte* investigation; they have given no sentence. This paragraph is an elaborate perversion of the whole design and the whole proceedings of the Senate. A Protest, sent to us by the President, against votes which the Senate has an unquestionable right to pass, and containing, too, such a misrepresentation of these votes as this paragraph manifests, is a breach of privilege.

But there is another breach of privilege. The President interferes between the members of the Senate and their constituents, and charges them with acting contrary to the will of those constituents. He says it is his right and duty to look to the journals of the Senate, to ascertain who voted for the resolution of the 28th of March, and then to show that individual Senators have, by their votes on that resolution, disobeyed the instructions, or violated the known will of the Legislatures who appointed them. All this he claims as his right and his duty. And where does he find any such right, or any such duty? What right has he to send a message to either House of Congress, telling its members that they disobey the will of their constituents? Has any English sovereign, since Cromwell's time, dared to send such a message to Parliament? Sir, if he can tell us that some of us disobey our constituents, he can tell us that all do so; and if we consent to receive this language from him, there is but one remaining step; and that is, that, since we thus disobey the will of our constituents, he should disperse us, and send us home. In my opinion, the first step in this process is as distinct a breach of privilege as the last. If Cromwell's examples shall be followed out, it will not be more clear then than it is now, that the privileges of the Senate have been violated. There is yet something, Sir, which surpasses all this; and that is, that, after this direct interference, after pointing out those Senators whom he would represent as having disobeyed the known will of their constituents, *he disclaims all design of interfering at all!* Sir, who could be the writer of a message, which, in the first place, makes the President assert such monstrous pretensions, and, in the next line, affront the understanding of the Senate by disavowing all right to do that very thing which he is doing? If there be any thing, Sir, in this message, more likely than the rest of it to move one from his equanimity, it is this

disclaimer of all design to interfere with the responsibility of members of the Senate to their constituents, after such interference had already been made, in the same paper, in the most objectionable and offensive form. If it were not for the purpose of telling these Senators that they disobeyed the will of the Legislatures of the States they represent, *for what purpose was it* that the Protest has pointed out the four Senators, and paraded against them the sentiments of their Legislatures? There can be no other purpose. The Protest says, indeed, that "these facts belong to the history of these proceedings!" To the history of what proceedings? To any proceeding to which the President was party? To any proceeding to which the Senate was party? Have they any thing to do with the resolution of the 28th of March? But it adds, that these facts *are important to the just developement of the principles and interests involved in the proceedings.* All this might be said of any other facts. It is mere words. To what principles, to what interests, are these facts important? They cannot be important but in one point of view; and that is as proof, or evidence, that the Senators have disobeyed instructions, or acted against the known will of their constituents, in disapproving the President's conduct. They have not the slightest bearing in any other way. They do not make the resolution of the Senate more or less true, nor its right to pass it more or less clear. Sir, these proceedings of the Legislatures were introduced into this Protest for the very purpose, and no other, of showing that members of the Senate have acted contrary to the will of their constituents. Every man sees and knows this to have been the sole design; and any other pretence is a mockery to our understandings. And this purpose is, in my opinion, an unlawful purpose; it is an unjustifiable intervention between us and our constituents; and is, therefore, a manifest and flagrant breach of privilege.

In the next place, the assertions of the Protest are inconsistent with the just authority of Congress, because they claim for the President a power, independent of Congress, to possess the custody and control of the public treasures. Let this point be accurately examined; and, in order to avoid mistake, I will read the precise words of the Protest.

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the executive department in this and all other governments. In accordance with this principle, every species of property belonging to the United States (excepting that which is in the use of the several coördinate departments of the Government, as means to aid them in performing their appropriate functions) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or

provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, and removable at his will.

"Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the Constitution be changed, intrusted to the Executive Department. No officer can be created by Congress, for the purpose of taking charge of it, whose appointment would not, by the Constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties."

And, in another place, it declares that "Congress cannot, therefore, take out of the hands of the Executive Department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the Constitution." These, Sir, are propositions which cannot receive too much attention. They affirm, that the custody of the public money Constitutionally and necessarily belongs to the Executive; and that, until the Constitution is changed, Congress cannot take it out of his hands, nor make any provision for its custody, except by such superintendents and keepers as are appointed by the President, and removable at his will. If these assertions be correct, we have, indeed, a singular Constitution for a republican government; for we give the Executive the control, the custody, and the possession of the public treasury, by original Constitutional provision; and when Congress appropriates, it appropriates only what is already in the President's hands.

Sir, I hold these propositions to be sound in neither branch. I maintain that the custody of the public money does not, necessarily, belong to the Executive, under this Government; and I hold that Congress may so dispose of it, that it shall be under the superintendence of keepers not appointed by the President, nor removable at his will. I think it competent for Congress to declare, as Congress did declare in the Bank charter, that the public deposits should be made in the Bank. When in the Bank, they were not kept by persons appointed by the President, or removable at his will. He could not change that custody; nor could it be changed at all, but according to provisions made in the law itself. There was, indeed, a provision in the law authorizing the *Secretary* to change the custody. But suppose there had been no such provision; suppose the contingent power had not been given to the Secretary; would it not have been a lawful enactment? Might not the law have provided that the public moneys should remain in the Bank, until Congress itself should

otherwise order, leaving no power of removal any where else? And if such provision had been made, what power, or custody, or control, would the President have possessed over them? Clearly, none at all. The act of May, 1800, directed custom-house bonds, in places where the Bank, which was then in existence, was situated, or in which it had Branches, to be deposited in the Bank or its Branches for collection, *without the reservation of any power of removal to the Secretary or any body else.* Now, Sir, this was an unconstitutional law, if the Protest, in the part now under consideration, be correct; because it placed the public money in a custody beyond the control of the President, and in hands of keepers not appointed by him, nor removable at his pleasure. One may readily discern, Sir, the process of reasoning by which the author of the Protest brought himself to the conclusion that Congress could not place the public moneys beyond the President's control. It is all founded on the power of appointment, and the power of removal. These powers, it is supposed, must give the President complete control and authority over those who actually hold the money, and, therefore, must necessarily subject its custody, at all times, to his own individual will. This is the argument.

It is true, that the appointment of all public officers, with some exceptions, is, by the Constitution, given to the President, with the consent of the Senate; and as, in most cases, public property must be held by some officer, its keepers will generally be persons so appointed. But this is only the common, not a necessary consequence, of giving the appointing power to the President and Senate. Congress may still, if it shall so see fit, place the public treasure in the hand of no officer appointed by the President, or removable by him, but in hands quite beyond his control. Subject to one contingency only, it did this very thing by the charter of the present Bank; and it did the same thing absolutely, and subject to no contingency, by the law of 1800. The Protest, in the first place, seizes on the fact that all officers must be appointed by the President, or on his nomination; it then assumes the next step, that all officers are, and *must be,* removable at his pleasure; and then, insisting that public money, like other public property, must be kept by *some public officer,* it thus arrives at the conclusion that it *must* always be in the hands of those who are appointed by the President, and who are removable at his pleasure. And it is very clear that the Protest means to maintain that the *tenure of office cannot be so regulated by law, as that public officers shall not be removable at the pleasure of the President.*

The President considers the right of removal as a fixed, vested, Constitutional right, which Congress cannot limit, control, or quali-

fy, until the Constitution shall be altered. This, Sir, is doctrine which I am not prepared to admit. I shall not now discuss the question, whether the law may not place the tenure of office beyond the reach of executive pleasure; but I wish merely to draw the attention of the Senate to the fact, that any such power in Congress is denied by the principles and by the words of the Protest. According to that paper, we live under a Constitution, by the provisions of which the public treasures are, necessarily and unavoidably, always under executive control; and as the Executive may remove all officers, and appoint others, at least temporarily, without the concurrence of the Senate, he may hold those treasures, in the hands of persons appointed by himself alone, in defiance of any law which Congress has passed or can pass. It is to be seen, Sir, how far such claims of power will receive the approbation of the country. It is to be seen whether a construction will be readily adopted which thus places the public purse out of the guardianship of the immediate representatives of the people.

But, Sir, there is, in this paper, something even yet more strange than these extraordinary claims of power. There is, Sir, a strong disposition, running through the whole Protest, to represent the Executive Department of this Government as the peculiar protector of the public liberty, the chief security on which the people are to rely against the encroachment of other branches of the Government. Nothing can be more manifest than this purpose. To this end, the Protest spreads out the President's official oath, reciting all its words in a formal quotation; and yet the oath of members of Congress is exactly equivalent. The President is to swear that he will "preserve, protect, and defend, the Constitution;" and members of Congress are to swear that they will "support the Constitution." There are more words in one oath than the other, but the sense is precisely the same. Why, then, this reference to his official oath, and this ostentatious quotation of it? Would the writer of the Protest argue that the oath itself is any grant of power; or that, because the President is to "preserve, protect, and defend, the Constitution," he is, therefore, to use what means he pleases, or any means, for such preservation, protection, and defence, except those which the Constitution and laws have specifically given him? Such an argument would be preposterous; but if the oath be not cited for this preposterous purpose, with what design is it thus displayed on the face of the Protest, unless it be to support the general idea that the maintenance of the Constitution, and the preservation of the public liberties, are especially confided to the safe discretion, the sure moderation, the paternal guardianship, of executive power? The oath of the President contains three words, all of equal

import; that is, that he will preserve, protect, and defend, the Constitution. The oath of members of Congress is expressed in shorter phrase: it is, that they will support the Constitution. If there be any difference in the meaning of the two oaths, I cannot discern it; and yet the Protest solemnly and formally argues thus: "The duty of defending, so far as in him lies, the integrity of the Constitution, would, indeed, have resulted from the very nature of his office; but, by thus expressing it in the official oath or affirmation, which, in this respect, differs from that of every other functionary, the founders of our republic have attested their sense of its importance, and have given to it a peculiar solemnity and force."

Sir, I deny the proposition, and I dispute the proof. I deny that the duty of defending the integrity of the Constitution is, in any peculiar sense, confided to the President; and I deny that the words of his oath furnish any argument to make good that proposition. Be pleased, Sir, to remember *against whom it is* that the President holds it *his* peculiar duty to defend the integrity of the Constitution. It is not against external force; it is not against a foreign foe; no such thing; *but it is against the representatives of the people and the representatives of the States!* It is against these, that the founders of our republic have imposed on him the duty of defending the integrity of the Constitution—a duty, he says, of the importance of which they have attested their sense, and to which they have given peculiar solemnity and force, by expressing it in his official oath!

Let us pause, Sir, and consider this most strange proposition. The President is the chief Executive Magistrate. He is commander-in-chief of the army and navy; nominates all persons to office; claims a right to remove all at will, and to control all, while yet in office; dispenses all favors; and wields the whole patronage of the Government. And the proposition is, that the duty of defending the integrity of the Constitution against the representatives of the States, and against the representatives of the people, *results to him from the very nature of his office;* and that the founders of our republic have given to this duty, thus confided to him, peculiar solemnity and force!

Mr. President, the contest, for ages, has been to rescue Liberty from the grasp of executive power. Whoever has engaged in her sacred cause, from the days of the downfall of those great aristocracies, which had stood between the king and the people, to the time of our own independence, has struggled for the accomplishment of that single object. On the long list of the champions of human freedom, there is not one name dimmed by the reproach of advocating the extension of executive authority: on the contrary, the uniform and steady purpose of all such champions has

been to limit and restrain it. To this end the spirit of liberty, growing more and more enlightened, and more and more vigorous from age to age, has been battering, for centuries, against the solid butments of the feudal system. To this end, all that could be gained from the imprudence, snatched from the weakness, or wrung from the necessities, of crowned heads, has been carefully gathered up, secured, and hoarded, as the rich treasures, the very jewels of liberty. To this end, popular and representative right has kept up its warfare against prerogative, with various success; sometimes writing the history of a whole age in blood; sometimes witnessing the martyrdom of Sidneys and Russells, often baffled and repulsed, but still gaining, on the whole, and holding what it gained with a grasp which nothing but the complete extinction of its own being could compel it to relinquish. At length, the great conquest over executive power, in the leading western states of Europe, has been accomplished. The feudal system, like other stupendous fabrics of past ages, is known only by the rubbish which it has left behind it. Crowned heads have been compelled to submit to the restraints of law, and the PEOPLE, with that intelligence and that spirit which make their voice resistless, have been able to say to prerogative, "Thus far shalt thou come, and no farther." I need hardly say, Sir, that, into the full enjoyment of all which Europe has reached only through such slow and painful steps, we sprang at once, by the declaration of independence, and by the establishment of free representative governments; governments borrowing more or less from the models of other free states, but strengthened, secured, improved in their symmetry, and deepened in their foundation, by those great men of our own country whose names will be as familiar to future times as if they were written on the arch of the sky.

Through all this history of the contest for liberty, executive power has been regarded as a lion which must be caged. So far from being the object of enlightened popular trust; so far from being considered the natural protector of popular right,—it has been dreaded, uniformly, always dreaded, as the great source of its danger.

And now, Sir, who is he, so ignorant of the history of liberty, at home and abroad; who is he, yet dwelling, in his contemplations, among the principles and dogmas of the middle ages; who is he, from whose bosom all original infusion of American spirit has become so entirely evaporated and exhaled, as that he shall put into the mouth of the President of the United States the doctrine that the defence of liberty *naturally results to* executive power, and is its peculiar duty? Who is he, that, generous and confiding towards power where it is most dangerous, and jealous only of those who can restrain it; who is he, that, reversing the

order of the state, and up-heaving the base, would poise the pyramid of the political system upon its apex; who is he, that, overlooking with contempt the guardianship of the representatives of the people, and, with equal contempt, the higher guardianship of the people themselves;—who is he, that declares to us, through the President's lips, that the security for freedom rests in executive authority? Who is he that belies the blood and libels the fame of his own ancestors, by declaring that *they*, with solemnity of form, and force of manner, have invoked the executive power to come to the protection of liberty? Who is he that thus charges them with the insanity, or the recklessness, of putting the lamb beneath the lion's paw? No, Sir. No, Sir. Our security is in our watchfulness of executive power. It was the constitution of this department, which was infinitely the most difficult part in the great work of creating our present Government. To give to the Executive Department such power as should make it useful, and yet not such as should render it dangerous; to make it efficient, independent, and strong, and yet to prevent it from sweeping away every thing by its union of military and civil authority, by the influence of patronage, and office, and favor;—this, indeed, was difficult. They who had the work to do, saw the difficulty, and we see it; and if we would maintain our system, we shall act wisely to that end, by preserving every restraint and every guard which the Constitution has provided. And when we, and those who come after us, have done all that we can do, and all that they can do, it will be well for us and for them, if some popular Executive, by the power of patronage and party, and the power, too, of that very popularity, shall not hereafter prove an overmatch for all other branches of the Government.

I do not wish, Sir, to impair the power of the President, as it stands written down in the Constitution, and as great and good men have hitherto exercised it. In this, as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to keep the vigils of liberty.

Having claimed for the Executive the especial guardianship of the Constitution, the Protest proceeds to present a summary view of the powers which are supposed to be conferred on the Executive by that instrument. And it is to this part of the message, Sir, that I would, more than to all others, call the particular attention of the Senate. I confess, that it was only upon careful reperusal of the paper, that I perceived the extent to which its assertions of power reach. I do not speak, now, of the President's claims of

power as opposed to legislative authority, but of his opinions as to his own authority, duty, and responsibility, as connected with all other officers under the Government. He is of opinion that the whole executive power is vested in him, and that he is responsible for its entire exercise; that, among the duties imposed on him, is that of "taking care that the laws be faithfully executed;" and that, "being thus made responsible for the entire action of the Executive Department, it was but reasonable that the power of appointing, overseeing, and controlling, those who execute the laws—a power in its nature executive—should remain in his hands. It is, therefore, not only his right, but the Constitution makes it his duty, to 'nominate, and, by and with the advice and consent of the Senate, appoint,' all 'officers of the United States whose appointments are not in the Constitution otherwise provided for,' with a proviso that the appointment of inferior officers may be vested in the President alone, in the courts of justice, or in the heads of departments."

The first proposition, then, which the Protest asserts, in regard to the President's powers, as Executive Magistrate, is, that, the general duty being imposed on him by the Constitution, of taking care that the laws be faithfully executed, *he thereby becomes himself responsible for the conduct of every person employed in the Government;* "for the entire action," as the paper expresses it, "of the Executive Department." This, Sir, is very dangerous logic. I reject the inference altogether. No such responsibility, nor any thing like it, follows from the general provision of the Constitution, making it his duty to see the laws executed. If it did, we should have, in fact, but one officer in the whole Government. The President would be every body. And the Protest assumes to the President this whole responsibility for every other officer, for the very purpose of making the President every body, of annihilating every thing like independence, responsibility, or *character*, in all other public agents. The whole responsibility is assumed, in order that it may be more plausibly argued, that all officers of Government are, not agents of the law, but the President's agents, and, therefore, responsible to him alone. If he be responsible for the conduct of all officers, and they be responsible to him only, then it may be maintained that such officers are but his own agents, his substitutes, his deputies. The first thing to be done, therefore, is to assume the responsibility for all; and this, you will perceive, Sir, is done, in the fullest manner, in the passages which I have read. Having thus assumed for the President the entire responsibility of the whole Government, the Protest advances boldly to its conclusion, and claims, at once, absolute power over all individuals in office, as being merely the President's agents. This is the language:—"The whole executive power being vested

in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice, to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts."

This, Sir, completes the work. This handsomely rounds off the whole executive system of executive authority. First, the President has the whole responsibility; and then, being thus responsible for all, he has, and ought to have, the whole power. We have heard of political *units*, and our American Executive, as here represented, is, indeed, a *unit*. We have a charmingly simple government! Instead of many officers, in different departments, each having appropriate duties, and each responsible for his own duties, we are so fortunate as to have to deal with but one officer. The President carries on the Government; all the rest are but sub-contractors. Sir, whatever *name* we give him, we have but ONE EXECUTIVE OFFICER. A Briareus sits in the centre of our system, and with his hundred hands touches every thing, moves every thing, controls every thing. I ask, Sir, Is this republicanism? Is this a government of laws? Is this legal responsibility?

According to the Protest, the very duties which every officer under the Government performs, are the duties of the President himself. It says that the President has a right to employ *agents* of his *own choice*, to aid HIM in the performance of HIS duties.

Mr. President, if these doctrines be true, it is idle for us any longer to talk about any such thing as a government of laws. We have no government of laws, not even the semblance or shadow of it: we have no legal responsibility. We have an Executive, consisting of one person, wielding all official power, and which is, to every effectual purpose, completely *irresponsible*. The President declares that he is "responsible for the entire action of the Executive Department." Responsible? What does he mean by being "*responsible?*" Does he mean *legal responsibility?* Certainly not. No such thing. Legal responsibility signifies *liability to punishment for misconduct or mal-administration*. But the Protest does not mean that the President is liable to be impeached and punished, if a secretary of state should commit treason, if a collector of the customs should be guilty of bribery, or if a treasurer should embezzle the public money. It does not mean, and cannot mean, that he should be answerable for any such crime, or such delinquency. What, then, is its notion of that *responsibility*, which it says the President is under for all officers, and which authorizes him to consider all officers as his own personal agents? Sir, it is merely responsibility to public opinion. It is a liability to be blamed; it is the chance of becoming unpopular,

the danger of losing a reëlection. Nothing else is meant in the world. It is the hazard of failing in any attempt or enterprise of ambition. This is all the responsibility to which the doctrines of the Protest hold the President subject.

It is precisely the *responsibility* under which Cromwell acted, when he dispersed Parliament, telling its members, not in so many words, indeed, that they disobeyed the will of their constituents, but telling them that the people were sick of them, and that he drove them out "for the glory of God, and the good of the nation." It is precisely the responsibility upon which Bonaparte broke up the popular assembly of France. I do not mean, Sir, certainly, by these illustrations, to insinuate designs of violent usurpations against the President; far from it; but I do mean to maintain that such responsibility as that with which the Protest clothes him, is no legal responsibility, no Constitutional responsibility, no republican responsibility; but a mere liability to loss of office, loss of character, and loss of fame, if he shall choose to violate the laws and overturn the liberties of the country. It is such a responsibility as leaves every thing in his discretion, and his pleasure.

Sir, it exceeds human belief, that any man should put sentiments such as this paper contains into a public communication from the President to the Senate. They are sentiments which give us all one master. The Protest asserts an absolute right to remove all persons from office at pleasure; and for what reason? Because they are incompetent? Because they are incapable? Because they are remiss, negligent, or inattentive? No, Sir; these are not the reasons. But he may discharge them, one and all, simply because "he is no longer willing to be responsible for their acts!" It insists on an absolute right in the President to *direct and control* every act of every officer of the Government, except the judges. It asserts this right of direct *control*, over and over again. The President may go into the treasury, among the auditors and controllers, and *direct* them how to settle every man's account; what abatements to make from one, what additions to another. He may go into the custom-house, among collectors and appraisers, and may *control* estimates, reductions, and appraisements. It is true, that these officers are sworn to discharge the duties of their respective offices honestly and fairly, according to their *own* best abilities; it is true, that many of them are liable to indictment for official misconduct, and others responsible, in suits of individuals, for damages and penalties, if such official misconduct be proved; but, notwithstanding all this, the Protest avers that all these officers are but the *President's agents;* that they are but aiding *him* in the discharge of *his* duties; that *he* is responsible for their conduct, and that they are removable at his will and

pleasure. And it is under this view of his own authority, that the President calls the Secretaries *his* Secretaries, not once only, but repeatedly. After half a century's administration of this Government, Sir; after we have endeavored, by statute upon statute, and by provision following provision, to define and limit official authority; to assign particular duties to particular public servants; to define those duties; to create penalties for their violation; to adjust, accurately, the responsibility of each agent, with his own powers and his own duties; to establish the prevalence of equal rule; to make the law, as far as possible, every thing, and individual will, as far as possible, nothing;—after all this, the astounding assertion rings in our ears, that, throughout the whole range of official agency, in its smallest ramifications, as well as in its larger masses, there is but ONE RESPONSIBILITY, ONE DISCRETION, ONE WILL! True indeed is it, Sir, if these sentiments be maintained, true indeed is it, that a President of the United States may well repeat, from Napoleon, what he repeated from Louis XIV, "I am the State!"

The argument by which the writer of the Protest endeavors to establish the President's claim to this vast mass of accumulated authority, is founded on the provision of the Constitution, that the executive power shall be vested in the President. No doubt the executive power is vested in the President; but what, and how much executive power, and how limited? To this question I should answer, "Look to the Constitution, and see; examine the particulars of the grant, and learn what that executive power is, which is given to the President, either by express words or by necessary implication." But so the writer of this Protest does not reason. He takes these words of the Constitution as being, of themselves, a general original grant of all executive power to the President, subject only to such express limitations as the Constitution prescribes. This is clearly the writer's view of the subject, unless, indeed, he goes behind the Constitution altogether, as some expressions would intimate, to search, elsewhere, for sources of executive power. Thus the Protest says, that it is not only the *right* of the President, but that the Constitution makes it his *duty*, to appoint persons to office; as if the *right* existed before the Constitution had created the *duty*. It speaks, too, of the power of removal, not as a power *granted* by the Constitution, but expressly as "an original executive power, *left* unchecked by the Constitution." How original? Coming from what source higher than the Constitution? I should be glad to know how the President gets possession of any power by a title earlier, or more *original*, than the grant of the Constitution; or what is meant by an *original* power, which the President possesses, and which the Constitution has *left*, unchecked, in his hands. The truth is, Sir,

most assuredly, that the writer of the Protest, in these passages, was reasoning upon the British Constitution, and not upon the Constitution of the United States. Indeed, he professes to found himself on authority drawn from the constitution of England. I will read, Sir, the whole passage. It is this:—

"In strict accordance with this principle, the power of removal, which, like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible; while it is taken from him in relation to judicial officers, for whose acts he is not responsible. *In the government from which many of the fundamental principles of our system are derived, the head of the executive department originally had power to appoint and remove at will all officers, executive and judicial.* It was to take the judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behavior. Nor is it conceivable why they are placed, in our Constitution, upon a tenure different from that of all other officers appointed by the Executive, unless it be for the same purpose."

Mr. President, I do most solemnly protest (if I, too, may be permitted to make a protest) against this mode of reasoning. The analogy between the British constitution and ours, in this respect, is not close enough to guide us safely; it can only mislead us. It has entirely misled the writer of the Protest. The President is made to argue, upon this subject, as if he had some right *anterior* to the Constitution, which right is, by that instrument, checked, in some respects, and in other respects is left unchecked; but which, nevertheless, still derives its being from another source; just as the British king had, in the early ages of the monarchy, an uncontrolled right of appointing and removing all officers at pleasure; but which right, so far as it respects the judges, has since been checked and controlled by act of Parliament; the right being original and inherent, the *check* only imposed by law. Sir, I distrust altogether British precedents, authorities, and analogies, on such questions as this. We are not inquiring how far our Constitution has imposed checks on a preëxisting authority. We are inquiring what extent of power that Constitution has *granted*. The grant of power, the whole source of power, as well as the restrictions and limitations which are imposed on it, is made in and by the Constitution. It has no other origin. And it is this, Sir, which distinguishes our system so very widely and materially from the systems of Europe. *Our* governments are limited governments; limited in their origin, in their very creation; limited, because none but

specific powers were ever granted either to any department of government, or to the whole: *their* are limited, whenever limited at all, by reason of restraints, imposed at different times, on governments originally unlimited and despotic. Our American questions, therefore, must be discussed, reasoned on, decided, and settled, on the appropriate principles of our own constitutions, and not by inapplicable precedents, and loose analogies, drawn from foreign states.

Mr. President, in one of the French comedies, as you know, in which the dullness and prolixity of legal argument is intended to be severely satirized, while the advocate is tediously groping among ancient lore having nothing to do with his case, the judge grows impatient, and at last cries out to him to *come down to the flood!* I really wish, Sir, that the writer of this Protest, since he was discussing matters of the highest importance to us as Americans, and which arise out of our own peculiar Constitution, had kept himself, not only on this side the general deluge, but also on this side the Atlantic. I desire that all the broad waves of that wide sea should continue to roll between us and the influence of those foreign principles and foreign precedents, which he so eagerly adopts.

In asserting power for an American President, I prefer he should attempt to maintain his assertions on American reasons. I know not, Sir, who the writer was (I wish I did), but, whoever he was, it is manifest that he argues this part of his case, throughout, on the principles of the constitution of England. It is true, that, in England, the king is regarded as the original fountain of all honor and all office; and that anciently, indeed, he possessed all political power of every kind. It is true that this mass of authority, in the history of that government, has been diminished, restrained, and controlled, by charters, by immunities, by grants, and by various modifications, which the friends of liberty have, at different periods, been able to obtain or to impose. All liberty, as we know, all popular privileges, as indeed the word itself imports, were formerly considered as favors and concessions from the monarch. But whenever and wherever civil freedom could get a foothold, and could maintain itself, these favors were turned into rights. Before and during the reigns of the princes of the Stuart family, they were acknowledged only as favors or privileges graciously allowed, although, even then, whenever opportunity offered, as in the instance to which I alluded just now, they were contended for as rights; and by the revolution of 1688, they were acknowledged as rights in England, by the prince who then ascended the throne, and as the condition on which he was allowed to sit upon it. But, with us, there never was a time when we acknowledged original, unrestrained, sovereign power over us. Our constitutions are not

made to limit and restrain preëxisting authority. They are the instruments by which the people confer power on their own servants. If I may use a legal phrase, the people are grantors, not grantees. They give to the Government, and to each branch of it, all the power it possesses, or can possess; and what is not given, they retain. In England, before her revolution, and in the rest of Europe since, if we would know the extent of liberty or popular right, we must go to grants, to charters, to allowances, and indulgences. But with us, we go to grants and to constitutions to learn the extent of the powers of Government. No political power is more original than the Constitution; none is possessed which is not there granted; and the grant, and the limitations in the grant, are in the same instrument.

The powers, therefore, belonging to any branch of our Government, are to be construed and settled, not by remote analogies, drawn from other governments, but from the words of the grant itself, in their plain sense and necessary import, and according to an interpretation consistent with our own history and the spirit of our own institutions. And I will never agree that a President of the United States holds the whole undivided power of office in his own hands, upon the theory that he is responsible for the entire action of the whole body of those engaged in carrying on the Government and executing the laws. Such a responsibility is purely ideal, delusive, and vain. There is, there can be, no substantial responsibility, any further than every individual is answerable, not merely in his reputation, not merely in the opinion of mankind, but to *the law*, for the faithful discharge of his own appropriate duties. Again and again we hear it said that the President is responsible to the American people! that he is responsible to the bar of public opinion! For whatever he does, he assumes accountability to the American people! For whatever he omits, he expects to be brought to the high bar of public opinion! And this is thought enough for a limited, restrained, republican government! an undefined, undefinable, ideal responsibility to the public judgment! Sir, if all this mean any thing, if it be not empty sound, it means no less than that the President may do any thing and every thing which he may expect to be tolerated in doing. He may go just so far as he thinks it safe to go; and Cromwell and Bonaparte went no farther. I ask again, Sir, Is this legal responsibility? Is this the true nature of a government with written laws and limited powers? And allow me, Sir, to ask, too, if an executive magistrate, while professing to act under the Constitution, is restrained only by this responsibility to public opinion, what prevents him, on the same responsibility, from proposing a change in that Constitution? Why may he not say, "I am about to introduce new forms, new principles, and with a new spirit; I am about to try a political

experiment, on a great scale; and when I get through with it, I shall be responsible to the American people, I shall be answerable to the bar of public opinion?"

Connected, Sir, with the idea of this airy and unreal responsibility to the public, is another sentiment, which, of late, we hear frequently expressed; and that is, *that the President is the direct representative of the American people.* This is declared, in the Protest, in so many words: "The President," says the Protest, "*is the direct representative of the American people.*" Now, Sir, this is not the language of the Constitution. The Constitution no where calls him the representative of the American people; still less their direct representative. It could not do so with the least propriety. He is not chosen directly by the people, but by a body of electors, some of whom are chosen by the people, and some of whom are appointed by the State Legislatures. Where, then, is the authority for saying that the President is the *direct representative of the people?* The Constitution calls the members of the other House, Representatives, and declares that they shall be chosen by the people; and there are no other direct or immediate representatives of the people in this Government. The Constitution denominates the President simply the President of the United States; it points out the complex mode of electing him, defines his powers and duties, and imposes limits and restraints on his authority. With these powers and duties, and under these restraints, he becomes, when chosen, President of the United States. That is his character, and the denomination of his office. How is it, then, that, on this official character, thus cautiously created, limited, and defined, he is to engraft another, and a very imposing character, viz. the character *of the direct representative of the American people?* I hold this, Sir, to be mere assumption, and dangerous assumption. If he is the representative of *all* the American people, he is the only representative which they all have. Nobody else presumes to represent all the people. And if he may be allowed to consider himself as the SOLE REPRESENTATIVE OF ALL THE AMERICAN PEOPLE, and is to act under no other responsibility than such as I have already described, then I say, Sir, that the Government (I will not say the people) has already a master. I deny the sentiment, therefore, and I protest against the language; neither the sentiment nor the language is to be found in the Constitution of the country; and whosoever is not satisfied to describe the powers of the President in the language of the Constitution, may be justly suspected of being as little satisfied with the powers themselves. The President is President. His office and his name of office are known, and both are fixed and described by law. Being commander of the army and navy, holding the power of nominating to office and removing from office, and being,

by these powers, the fountain of all patronage and all favor, what does he not become if he be allowed to superadd to all this the character of single representative of the American people? Sir, he becomes, what America has not been accustomed to see, what this Constitution has never created, and what I cannot contemplate, but with profound alarm. He who may call himself the single representative of a nation, may speak in the name of the nation; may undertake to wield the power of the nation; and who shall gainsay him, in whatsoever he chooses to pronounce as the nation's will?

I will now, Sir, ask leave to recapitulate the general doctrines of this Protest, and to present them together. They are—

That neither branch of the Legislature can take up, or consider, for the purpose of censure, any official act of the President, without some view to legislation or impeachment;

That not only the passage, but the discussion of the resolution of the Senate of the 28th of March, was unauthorised by the Constitution, and repugnant to its provisions;

That the custody of the public treasury always must be intrusted to the Executive; that Congress cannot take it out of his hands, nor place it any where, except with such superintendents and keepers as are appointed by him, responsible to him, and removable at his will;

That the whole executive power is in the President, and that, therefore, the duty of defending the integrity of the Constitution *results to him from the very nature* of his office; and that the founders of our republic have attested their sense of the importance of this duty, and, by expressing it in his official oath, have given to it peculiar solemnity and force;

That, as he is to take care that the laws be faithfully executed, he is thereby made responsible for the entire action of the Executive Department, with power of appointing, overseeing, and *controlling*, those who execute the laws;

That the power of removal from office, like that of appointment, is an *original* executive power, and is *left* in his hands, *unchecked* by the Constitution, except in the case of judges; that, being responsible for the exercise of the whole executive power, he has a right to employ agents of his own choice to assist *him* in the performance of *his* duties, and to discharge them when he is no longer willing to be responsible for their acts;

That the Secretaries are *his* Secretaries, and all persons appointed to offices created by law, except the judges, *his* agents, responsible to him, and removable at his pleasure;

And, finally, that he is the *direct representative of the American people*.

These, Sir, are some of the leading propositions, contained in

the Protest; and if they be true, then the Government under which we live is an elective monarchy. It is not yet absolute; there are yet some checks and limitations in the Constitution and laws; but, in its essential and prevailing character, it is an elective monarchy.

Mr. President, I have spoken freely of this Protest, and of the doctrines which it advances; but I have said nothing which I do not believe. On these high questions of Constitutional law, respect for my own character, as well as a solemn and profound sense of duty, restrains me from giving utterance to a single sentiment which does not flow from entire conviction.. I feel that I am not wrong. I feel that an inborn and inbred love of Constitutional liberty, and some study of our political institutions, have not on this occasion misled me. But I have desired to say nothing that should give pain to the Chief Magistrate, personally. I have not sought to fix arrows in his breast; but I believe him mistaken, altogether mistaken, in the sentiments which he has expressed; and I must concur with others in placing on the records of the Senate my disapprobation of those sentiments. On a vote, which is to remain so long as any proceeding of the Senate shall last, and on a question which can never cease to be important while the Constitution of the country endures, I have desired to make public my reasons. They will now be known, and I submit them to the judgment of the present and of after times. Sir, the occasion is full of interest. It cannot pass off without leaving strong impressions on the character of public men. A collision has taken place, which I could have most anxiously wished to avoid; but it was not to be shunned. We have not sought this controversy; it has met us, and been forced upon us. In my judgment, the law has been disregarded, and the Constitution transgressed; the fortress of liberty has been assaulted, and circumstances have placed the Senate in the breach; and, although we may perish in it, I know we shall not fly from it. But I am fearless of consequences. We shall hold on, Sir, and hold out, till the people themselves come to its defence. We shall raise the alarm, and maintain the post, till they, whose right it is, shall decide whether the Senate be a faction, wantonly resisting lawful power, or whether it be opposing, with firmness and patriotism, violations of liberty and inroads upon the Constitution.

REMARKS,

ON DIFFERENT OCCASIONS, ON THE REMOVAL OF THE DEPOSITS, AND ON THE SUBJECT OF A NATIONAL BANK, DELIVERED IN THE SENATE OF THE UNITED STATES, JANUARY AND FEBRUARY, 1834.

On the 20th of January, Mr. Webster presented the following resolutions passed at a meeting in Boston:—

1. *Resolved, as the sense of this meeting*, That the business community of this city, vicinity, and commonwealth, are in a high state of prosperity, independently of those embarrassments in the money market, consequent upon the deranged state of the financial and banking operations of the country.

2. *Resolved*, That all the great branches of industry throughout the Union have, for three years past, been in a highly-prosperous condition, till within the period of a few months.

3. *Resolved*, That the products of agriculture have been unusually abundant the past year; that prices at home and abroad are higher than usual, and likely to be maintained under the ordinary circumstances of the money market.

4. *Resolved*, That the currency, issued by the banks of this State, inasmuch as their notes in circulation are not more than one fourth of their capitals, and the securities for their loans being deemed good, is in a sound condition.

5. *Resolved*, That the currency of the Union at large is also in a safe and sound state, and that any sudden and undue contraction of bank issues, which may have been lately made, has principally arisen, not from over-issues of paper, but from the disturbed state of our financial and money concerns, incident to the altered condition of the National Bank.

6. *Resolved*, That there is the usual quantity of specie in the country, and that, foreign exchanges being greatly in our favor, there is no reason to apprehend any drain of the precious metals; but, on the contrary, we may naturally look for an influx of them.

7. *Resolved*, That the local banks now employed by Government, however well disposed to accommodate the public, cannot, with their small capitals, limited credit, and scattered resources, and, above all, their entire want of concert and unity of action, afford that aid to the agricultural classes, in the transmission of their products, from the places of growth to the places of export and distribution, which they have heretofore received from the National Bank, but which is now, in part, necessarily withdrawn from them by that institution, in consequence of its change of position in regard to the Government.

8. *Resolved*, That the evils arising from the scarcity and high price of money fall with most severity on the industrious and middling classes of society, who are compelled to make sacrifices of property to provide for their daily payments, while the retired capitalists are not only exempt from such a loss, but derive a benefit from the increased value of money.

9. *Resolved*, That a continuance of the existing embarrassments in business, arising from the deranged state of our money concerns, will not only check the future operations of the farmer, merchant, manufacturer, and mechanic, and consequently lessen the employment and wages of the laborer, but will also prove extremely injurious to those great and useful internal improvements, which must soon be arrested in their progress, if the pressure on the money market is not relieved; and that all property now in existence will become depreciated to a degree that may prove utterly ruinous to a portion of the most enterprising and useful members of the community.

10. *Resolved*, That the amount of currency necessary to effect the ordinary payments in business, though utterly insignificant compared with the wealth of the nation, yet, when viewed as the measure of value of every species of property, as the basis of all contracts, and the medium by which the constant interchanges of property are made, must be considered of immense importance; and that any sudden and undue expansion or contraction of the amount required for the ordinary wants of the country, from whatever causes it may proceed, will necessarily tend to the most calamitous results.

11. *Resolved*, That the existing embarrassments and panic among all classes of the business community, and which threaten, if not soon remedied, the most serious evils, may be attributed, first, to a spirit of speculation and over-trading—the usual effects of long-continued prosperity; and, secondly, to the transferring the collection of the national revenue from the National Bank to the State banks, and thereby paralyzing, in some degree, the action of that institution, by whose large capital, solid credit, and extensive resources, the business operations of the whole country have been sustained and promoted.

12. *Resolved*, That, in the opinion of this meeting, a restoration of the National Bank to the relation in which it stood to the Government prior to the removal of the deposits, and allowing the public moneys already in possession of the local banks to remain there, till required by the Government, would, in a great measure, relieve the country from the embarrassments arising from a scarcity and derangement of currency, and, above all, allay that distrust, agitation, and alarm, which is more difficult to overcome, and more dangerous in its tendencies if not overcome, than the actual inconveniences and losses usually incident to an insufficient or deranged currency.

13. *Resolved*, That, whatever course may be adopted by Congress, in relation to matters now in dispute between the Government and the National Bank, it is of vital importance to the great interests of the nation that there should be a prompt decision, so necessary for the reëstablishment of that confidence throughout the whole country, which has been greatly impaired by the uncertain and unsettled state of our financial and money concerns.

14. *Resolved*, That the foregoing resolutions have no relation to any party or political purposes, beyond the direct object manifest on the face of them; that the meeting comprises persons of all classes and professions, entertaining various and opposite opinions upon the question of

rechartering the existing National Bank, or of chartering a new one in lieu of it; that few of them have any pecuniary interest involved in the fate of that institution; that they have met together, on this occasion, as citizens, having one common end in view, and with no other purpose or desire than to aid in the reestablishment of that credit and confidence, among all classes, so essential to our present safety and our future prosperity.

15. *Resolved*, That a copy of the foregoing resolutions be transmitted, by the Chairman of this meeting, to each of the Senators and Representatives of this State in Congress, as expressive of the opinions and feeling of a portion of their constituents upon the important matters therein referred to, and earnestly requesting them to use their best exertions to effect the objects which this meeting has in view; and that they also be requested to lay a copy of the same before both branches of our National Legislature.

16. *Resolved*, That a committee, consisting of Henry Lee, George Bond, Jonas B. Brown, Henry F. Baker, James T. Austin, George Darracott, and Charles Wells, be appointed to take such other measures, in furtherance of the object of this meeting, as they shall deem proper and expedient.

CHARLES WELLS, *Chairman.*

HENRY F. BAKER, BENJAMIN T. REED, } *Secretaries.*

The resolutions having been read by the Secretary of the Senate,—

MR. WEBSTER said, he wished to bear unequivocal and decided testimony to the respectability, intelligence, and disinterestedness, of the long list of gentlemen at whose instance this meeting was assembled. The meeting, Sir, was connected with no party purpose whatever. It had an object more sober, more cogent, more interesting to the whole community, than mere party questions. The Senate will perceive, in the tone of these resolutions, no intent to exaggerate or inflame; no disposition to get up excitement or to spread alarm. I hope the restrained and serious manner, the moderation of temper, and the exemplary candor of these resolutions, in connection with the plain truths which they contain, will give them just weight with the Senate. I assure you, Sir, the members composing this meeting were neither capitalists, nor speculators, nor alarmists. They are merchants, traders, mechanics, artisans, and others engaged in the active business of life. They are of the muscular portion of society; and they desire to lay before Congress an evil, which they feel to press sorely on their occupations, their earnings, their labor, and their property; and to express their conscientious conviction of the causes of that evil. If intelligence; if pure intention; if deep and wide-spread connection with business in its various branches; if thorough practical knowledge and experience; if inseparable union between their own prosperity and the prosperity of the whole country,—authorise men to speak, and give them a right to be heard, the sentiments of

this meeting ought to make an impression. For one, Sir, I entirely concur in all their opinions. I adopt their first fourteen resolutions, without alteration or qualification, as setting forth truly the present state of things, stating truly its causes, and pointing to the true remedy.

Mr. President, now that I am speaking, I will use the opportunity to say a few words, which I intended to say in the course of the morning, on the coming up of the resolution which now lies on the table; but which are as applicable to this occasion as to that.

An opportunity may, perhaps, be hereafter afforded me of discussing the reasons given by the Secretary for the very important measure adopted by him in removing the deposits. But as I know not how near that time may be, I desire, in the mean while, to make my opinions known, without reserve, on the present state of the country. Without intending to discuss any thing at present, I feel it my duty, nevertheless, to let my sentiments and my convictions be understood. In the first place, then, Sir, I agree with those who think that there is a severe pressure in the money market, and very serious embarrassment felt in all branches of the national industry. I think this is not local, but general—general, at least, over every part of the country where the cause has yet begun to operate, and sure to become not only general, but universal, as the operation of the cause shall spread. If evidence be wanted, in addition to all that is told us by those who know, the high rate of interest,—now at twelve per cent. or higher, where it was hardly six last September,—the depression of all stocks, some ten, some twenty, some thirty per cent., and the low prices of commodities, are proofs abundantly sufficient to show the existence of the pressure. But, Sir, labor, that most extensive of all interests,—American manual labor,—feels, or will feel, the shock more sensibly, far more sensibly, than capital, or property of any kind. Public works have stopped, or must stop; great private undertakings, employing many hands, have ceased, and others must cease. A great lowering of the rates of wages, as well as a depreciation of property, is the inevitable consequence of causes now in full operation. Serious embarrassments in all branches of business do certainly exist.

I am of opinion, therefore, that there is, undoubtedly, a very severe pressure on the community, which Congress ought to relieve, if it can; and that this pressure is not an instance of the ordinary reaction, or the ebbing and flowing of commercial affairs, but is an extraordinary case, produced by an extraordinary cause.

In the next place, Sir, I agree entirely with the 11th Boston resolution, as to the causes of this embarrassment. We were in a state of high prosperity, commercial and agricultural. Every branch of business was pushed far, and the credit as well as the capital of the country employed to near its utmost limits. In this state of

things, some degree of overtrading doubtless took place, which, however, if nothing else had occurred, would have been seasonably corrected by the ordinary and necessary operation of things. But on this palmy state of things the late measure of the Secretary fell, and has acted on it with powerful and lamentable effect.

And I think, Sir, that such a cause is entirely adequate to produce the effect, that it is wholly natural, and that it ought to have been foreseen that it would produce exactly such consequences. Those must have looked at the surface of things only, as it seems to me, who thought otherwise, and who expected that such an operation could be gone through with without producing a very serious shock.

The Treasury, in a very short time, has withdrawn from the Bank 8,000,000 dollars, within a fraction. This call, of course, the Bank has been obliged to provide for, and could not provide for without more or less inconvenience to the public. The mere withdrawing of so large a sum from hands actually holding and using it, and the transferring of it, through the Bank collecting, and through another bank loaning it, if it can loan it, into other hands, is itself an operation which, if conducted suddenly, must produce considerable inconvenience. And this is all that the Secretary seems to have anticipated. But this is not the one hundredth part of the whole evil. The great evil arises from the new attitude in which the Government places itself towards the Bank. Every thing is now in a false position. The Government, the Bank of the United States, the State banks, are all out of place. They are deranged and separated, and jostling against each other. Instead of amity, reliance, and mutual succor, relations of jealousy, of distrust, of hostility even, are springing up between these parties. All act on the defensive: each looks out for itself; and the public interest is crushed between the upper and the nether millstone. All this should have been foreseen. It is idle to say that these evils might have been prevented by the Bank, if it had exerted itself to prevent them. That is a mere matter of opinion: it may be true, or it may not; but it was the business of those who proposed the removal of the deposits to ask themselves how it was probable the Bank would act, when they should attack it, assail its credit, and allege the violation by it of its charter; and thus compel it to take an attitude, at least, of stern defence. The community have certainly a right to hold those answerable who have unnecessarily got into this quarrel with the Bank, and thereby occasioned the evil, let the conduct of the Bank, in the course of the controversy, be what it may.

In my opinion, Sir, the great source of the evil is the shock which the measure has given to *confidence* in the commercial world. The credit of the whole system of the currency of the country

seems shaken. The State banks have lost credit, and lost confidence. They have suffered vastly more than the Bank of the United States itself, at which the blow was aimed.

The derangement of internal exchanges is one of the most disastrous consequences of the measure. By the origin of its charter, by its unquestioned solidity, by the fact that it was *at home every where*, and in perfect credit every where, the Bank of the United States accomplished the internal exchanges of the country with vast facility, and at an unprecedented cheap rate. The State banks can never perform this equally well; for the reason given in the Boston resolutions, they cannot act with the same concert, the same identity of purpose. Look at the prices current, and see the change in the value of the notes of distant banks in the great cities. Look at the depression of the stocks of the State banks, deposit banks and all. Look at what must happen the moment the Bank of the United States, in its process of winding up, or to meet any other crisis, shall cease to buy domestic bills, especially in the southern, south-western, and western markets. Can any man doubt what will be the state of exchange when that takes place? Or can any one doubt its necessary effect upon the price of produce? The Bank has purchased bills to the amount of sixty millions a year, as appears by documents heretofore laid before the Senate. A great portion of these, no doubt, was purchased in the South and West, against shipments of the great staples of those quarters of the country. Such is the course of trade. The produce of the South-west and the South is shipped to the North and the East for sale, and those who ship it draw bills on those to whom it is shipped; and these bills are bought and discounted, or cashed by the Bank. When the Bank shall cease to buy, as it must cease, consequences cannot but be felt much severer even than those now experienced. This is inevitable. But, Sir, I go no farther into particular statements. My opinion, I repeat, is, that the present distress is immediately occasioned, beyond all doubt, by the removal of the deposits; and that just such consequences might have been, and ought to have been, foreseen from that measure, as we do now perceive and feel around us.

Sir, I do not believe, nevertheless, that these consequences were foreseen. With such foresight, the deposits, I think, would not have been touched. The measure has operated more deeply and more widely than was expected. We all may find proof of this in the conversations of every hour. No one, who seeks to acquaint himself with the opinions of men, in and out of Congress, can doubt that, if the act were now to be done, it would receive very little encouragement or support.

Being of opinion that the removal of the deposits has produced the pressure, as its immediate effect, not so much by withdrawing

a large sum of money from circulation, as by alarming the confidence of the community, by breaking in on the well-adjusted relations of the Government and the Bank, I agree again with the Boston resolutions, that the natural remedy is a restoration of the relation in which the Bank has heretofore stood to Government.

I agree, Sir, that this question ought to be settled, and to be settled soon. And yet, if it be decided that the present state of things shall exist—if it be the determination of Congress to do nothing in order to put an end to the unnatural, distrustful, half-belligerent, present condition of the Government and the Bank—I do not look for any great relief to the community, or any early quieting of the public agitation. On the contrary, I expect increased difficulty and increased disquiet.

The public moneys are now out of the Bank of the United States. There is no law regulating their custody, or fixing their place. They are at the disposal of the Secretary of the Treasury, to be kept where he pleases, as he pleases, and the places of their custody to be changed as often as he pleases.

Now, Sir, I do not think this is a state of things in which the country is likely to acquiesce.

Mr. President, the restoration of the deposits is a question distinct and by itself. It does not necessarily involve any other question. It stands clear of all controversy and all opinion about rechartering the Bank, or creating any new bank.

But I wish, nevertheless, Sir, to say a few words of a bearing somewhat beyond that question. Being of opinion that the country is not likely to be satisfied with the present state of things, I have looked earnestly for the suggestion of some prospective measure—some system to be adopted as the future policy of the country. Where are the public moneys hereafter to be kept? In what currency is the revenue hereafter to be collected? What is to take the place of the Bank in our general system? How are we to preserve a uniform currency, a uniform measure of the value of property and the value of labor, a uniform medium of exchange and of payments? How are we to exercise that salutary control over the national currency, which it was the unquestionable purpose of the Constitution to devolve on Congress?

These, Sir, appear to me to be the momentous questions before us, and which we cannot long keep out of view. In these questions every man in the community, who either has a dollar, or expects to earn one, has a direct interest.

Now, Sir, I have heard but four suggestions, or opinions, as to what may hereafter be expected or attempted.

The first is, that things will remain as they are—the Bank be suffered to expire, no new bank created, and the whole subject left under the control of the Executive Department.

I have already said that I do not believe the country will ever acquiesce in this.

The second suggestion is that which was made by the honorable member from Virginia [Mr. Rives]. That honorable member pledges himself to bring forward a proposition, having for its object to do away with the paper system altogether, and to return to an entire metallic currency.

I do not expect, Sir, that the honorable member will find much support in such an undertaking. A mere gold and silver currency, and the entire abolition of paper, is not suited to the times. The idea has something a little too antique, too Spartan, in it; we might as well think of going to iron at once. If such a result as the gentleman hopes for were even desirable, I regard its attainment as utterly impracticable and hopeless. I lay that scheme, therefore, out of my contemplation.

There is, then, Sir, the rechartering of the present Bank; and, lastly, there is the establishment of a new bank. The first of these received the sanction of the last Congress, but the measure was negatived by the President. The other, the creation of a new bank, has not been brought forward in Congress, but it has excited attention out of doors, and has been proposed in some of the State Legislatures. I observe, Sir, that a proposition has been submitted for consideration, by a very intelligent gentleman in the Legislature of Massachusetts, recommending the establishment of a new bank, with the following provisions:—

"1. The capital stock to be fifty millions of dollars.

"2. The stockholders of the present United States Bank to be permitted to subscribe an amount equal to the stock they now hold.

"3. The United States to be stockholders to the same extent they now are, and to appoint the same number of directors.

"4. The subscription to the remaining fifteen millions to be distributed to the several States in proportion to federal numbers, or in some other just and equal ratio; the instalments payable either in cash or in funded stock of the State, bearing interest at five per cent.

"5. No branch of the bank to be established in any State, unless by permission of its Legislature.

"6. The branches of the bank established in the several States to be liable to taxation by those States, respectively, in the same manner and to the same extent only with their own banks.

"7. Such States as may become subscribers to the stock to have the right of appointing a certain number, not exceeding one third, of the directors in the branch of their own State.

"8. Stock not subscribed for under the foregoing provisions to be open to subscription by individual citizens."

A project not altogether dissimilar has been started in the Legislature of Pennsylvania. These proceedings show, at least, a

conviction of the necessity of some bank created by Congress. Mr. President, on this subject I have no doubt whatever. I think a national bank proper and necessary. I believe it to be the only practicable remedy for the evils we feel, and the only effectual security against the greater evils which we fear. Not, Sir, that there is any magic in the name of a bank; nor that a national bank works by any miracle or mystery. But, looking to the state of things actually existing around us—looking to the great number of State banks already created, not less than three hundred and fifty, or four hundred—looking to the vast amount of paper issued by those banks, and considering that, in the very nature of things, this paper must be limited and local in its credit and in its circulation—I confess I see nothing but a well-conducted national institution which is likely to afford any guard against excessive paper issues, or which can furnish a sound and uniform currency to every part of the United States. This, Sir, is not only a question of finance, it not only respects the operations of the Treasury, but it rises to the character of a high political question. It respects the currency, the actual money, the measure of value of all property and all labor in the United States. If we needed not a dollar of money in the Treasury, it would still be our solemn and bounden duty to protect this great interest. It respects the exercise of one of the greatest powers, beyond all doubt, conferred on Congress by the Constitution. And I hardly know any thing less consistent with our public duty, and our high trust, nor any thing more likely to disturb the harmonious relations of the States, in all affairs of business and life, than for Congress to abandon all care and control over the currency, and to throw the whole money system of the country into the hands of four-and-twenty State Legislatures.

I am, then, Sir, for a bank; and am fully persuaded that to that measure the country must come at last.

The question, then, is between the creation of a new bank, and the rechartering of the present Bank, *with modifications*. I have already referred to the scheme for a new bank, proposed to the Legislature of Massachusetts by Mr. White. Between such a new bank as his propositions would create, and a rechartering of the present Bank, *with modifications*, there is no very wide, certainly no irreconcilable difference. We cannot, however, create another bank before March, 1836. This is one reason for preferring a continuance of the present. And, treating the subject as a practical question, and looking to the state of opinion, and to the probability of success, in either attempt, I incline to the opinion that the true course of policy is to propose a recharter of the present Bank, *with modifications*.

As to what these modifications should be, I would only now observe, that, while it may well be inferred, from my known sentiments, that I should not myself deem any alterations in the char-

ter, beyond those proposed by the bill of 1832, highly essential, yet it is a case in which, I am aware, nothing can be effected for the good of the country, without making some approaches to unity of opinion. I think, therefore, that, in the hope of accomplishing an object of so much importance, liberal concessions should be made. I lay out of the case all consideration of any especial claim, or any legal right, of the present stockholders to a renewal of their charter. No such right can be pretended; doubtless none such is pretended. The stockholders must stand like other individuals, and their interest regarded so far, and so far only, as may be judged for the public good. Modifications of the present char ter should, I think, be proposed, such as may remove all reasona ble grounds of jealousy, in all quarters, whether in States, in othei institutions, or in individuals; such, too, as may tend to reconcile the interests of the great city where the Bank is, with those of another great city; and, in short, the question should be met with a sincere disposition to accomplish, by united and friendly counsels, a measure which shall allay fears and promote confidence, at the same time that it secures to the country a sound, creditable, uniform currency, and to the Government a safe deposit for the public treasure, and an important auxiliary in its financial operations.

I repeat, then, Sir, that I am in favor of renewing the charter of the present Bank, *with such alterations as may be expected to meet the general sense of the country.*

And now, Mr. President, to avoid all unfounded inferences, I wish to say, that these suggestions are to be regarded as wholly my own. They are made without the knowledge of the Bank, and with no understanding or concert with any of its friends. I have not understood, indeed, that the Bank itself proposes to apply, at present, for a renewal of its charter. Whether it does so or not, my suggestions are connected with no such or any other purpose of the Bank. I take up the subject on public grounds, purely and exclusively.

And, Sir, in order to repel all inferences of another sort, I wish to state, with equal distinctness, that I do not undertake to speak the sentiments of any individual heretofore opposed to the Bank, or belonging to that class of public men who have generally opposed it. I state my own opinions: if others should concur in them, it will be only because they approve them, and will not be the result of any previous concert or understanding whatever.

Finally, Mr. President, having stated my own opinions, I respectfully ask those who propose to continue the discussion now going on, relative to the deposits, *to let the country see their plan for the final settlement of the present difficulties.* If they are against the Bank, and against all banks, *what do they propose?*

That the country will not be satisfied with the present state of things, seems to be certain. *What state of things is to succeed it?* To these questions I desire to call, earnestly, the attention of the Senate and of the country. The occasion is critical, the interests at stake momentous, and, in my judgment, Congress ought not to adjourn till it shall have passed some law suitable to the exigency, and satisfactory to the country.

On the 30th day of January, Mr. WRIGHT, of New York, presented to the Senate sundry resolutions, passed by the Legislature of New York, approving the removal of the deposits, and disapproving of any bank of the United States.

In presenting these resolutions, Mr. WRIGHT, among other observations, expressed his decided hostility to the renewal of the charter of the present Bank, or the creation of any other; that he would oppose this Bank upon the ground of its flagrant violations of the high trusts confided to it, but that his objections were of a still deeper and graver character; that he went against this Bank, and against any and every bank to be incorporated by Congress, to be located any where within the twenty-four States. He expressed a strong opinion, too, that the existing distress arose from the conduct of the Bank in curtailing its loans; and that this curtailment had been made with a view to extort a renewal of its charter from the fears of the people.

As *to what was to be done*, under present circumstances, in order to relieve the public pressure, Mr. WRIGHT said, that, speaking for himself only, he would sustain the executive branch of the Government, by all the legal means in his power, in the effort now making to substitute the State banks, instead of the Bank of the United States, as the fiscal agent of the Government.

When Mr. WRIGHT had concluded his remarks,

Mr. WEBSTER said: I cannot consent to let the opportunity pass, without a few observations upon what we have now heard. Sir, the remarks of the honorable member from New York are full of the most portentous import. They are words, not of cheering or consolation, but of ill-boding signification; and, as they spread far and wide, in their progress from the capital through the country, they will carry with them, if I mistake not, gloom, apprehension, and dismay. I consider the declarations which the honorable member has now made, as expressing the settled purpose of the Administration on the great question which so much agitates the country.

[Here Mr. WRIGHT rose, and said that he had given his opinion as an individual, and that he had no authority to speak for the Administration.]

Mr. WEBSTER continued. I perfectly well understand, Sir, all the gentleman's disclaimers and demurrers. He speaks, to be

sure, in his own name only; but, from his political connections, his station, and his relations, I know full well that he has not, on this occasion, spoken one word which has not been deliberately weighed and considered by others as well as himself.

He has announced, therefore, to the country, two things clearly and intelligibly:

First, that the present system (if system it is to be called) is to remain unaltered. The public moneys are to remain, as they now are, in the State banks, and the whole public revenue is hereafter to be collected through the agency of such banks. This is the first point. The gentleman has declared his full and fixed intention to support the Administration in this course, and therefore it cannot be doubted that this course has been determined on by the Administration. No plan is to be laid before Congress; no system is to be adopted by authority of law. The effect of a law would be to place the public deposits beyond the power of daily change, and beyond the absolute control of the Executive. But no such fixed arrangement is to take place. The whole is to be left completely at the pleasure of the Secretary of the Treasury, who may change the public moneys from place to place, and from bank to bank, as often as he pleases.

The second thing now clearly made known, and of which, indeed, there have been many previous intimations, is, Sir, that a great effort is to be made, or rather an effort already made is to be vigorously renewed and continued, to turn the public complaints against the Bank instead of the Government, and to persuade the people that all their sufferings arise, not from the act of the Administration in interfering with the public deposits, but from the conduct of the Bank since that was done. It is to be asserted here, and will be the topic of declamation every where, that, notwithstanding the removal of the deposits, if the Bank had not acted wrong, there would have been no pressure or distress on the country. The object, it is evident, will now be to divert public attention from the conduct of the Secretary, and fix it on that of the Bank. This is the second thing which is to be learned from the speech of the member from New York.

The honorable member has said that new honors are to be gained by the President, from the act which he is about to accomplish; that he is to bring back legislation to its original limits, and to establish the great truth that Congress has no power to create a national bank.

I shall not stop to argue whether Congress can charter a bank in this little District, which shall operate every where throughout the Union, and yet cannot establish one in any of the States. The gentleman seemed to leave that point, as if Congress had such a power. But all must see that, if Congress cannot establish

a bank in one of the States, with branches in the rest, it would be mere evasion to say that it might establish a bank here, with branches in the several States.

Congress, it is alleged, has not the Constitutional power to create a bank! Sir, on what does this power rest, in the opinion of those of us who maintain it? Simply on this; that it is a power which is necessary and proper for the purpose of carrying other powers into effect. A fiscal agent—an auxiliary to the Treasury—a machine—a something, is necessary for the purposes of the Government, and Congress, under the general authority conferred upon it, can create that fiscal agent—that machine—that something—and call it a bank. This is what I contend for; but this the gentleman denies, and says that it is not competent to Congress to create a fiscal agent for itself, but that it may employ, as such agents, institutions not created by itself, but by others, and which are beyond the control of Congress. It is admitted that the agent is necessary, and that Congress has the power to employ it; but it is insisted, nevertheless, that Congress cannot create it, but must take such as is or may be already created. I do not agree to the soundness of this reasoning. Suppose there were no State banks: in that case, as the gentleman admits the necessity of a bank, how can he hold such discordant opinions as to assert that Congress could not, in that case, create one? The agency of a bank is necessary; and, because it is necessary, we may use it, provided others will make a bank for us; but, if they will not, we cannot make one for ourselves, however necessary! This is the proposition.

For myself, I must confess that I am too obtuse to see the distinction between the power of creating a bank for the use of the Government, and the power of taking into its use banks already created. To make and to use, or to make and to hire, must require the same power, in this case, and be either both Constitutional or both equally Unconstitutional; except that every consideration of propriety, and expediency, and convenience, requires that Congress should make a bank which will suit its own purposes, answer its own ends, and be subject to its own control, rather than use other banks, which were not created for any such purpose, are not suited to it, and over which Congress can exercise no supervision.

On one or two other points, Sir, I wish to say a word. The gentleman differs from me as to the degree of pressure on the country. He admits that, in some parts, there is some degree of pressure; in large cities, he supposes there may be distress; but asserts that every where else the pressure is limited; that every where it is greatly exaggerated; and that it will soon be over. This is mere matter of opinion. It is capable of no precise

and absolute proof or disproof. The avenues of knowledge are equally open to all. But I can truly say that I differ from the gentleman on this point most materially and most widely. From the information I have received during the last few weeks, I have every reason to believe that the pressure is very severe, has become very general, and is fast increasing; and I see no chance of its diminution, unless measures of relief shall be adopted by the Government.

But the gentleman has discovered, or thinks he has discovered, motives for the complaints which arise on all sides. It is all but an attempt to bring the Administration into disfavor. This alone is the cause that the removal of the deposits is so strongly censured! Sir, the gentleman is mistaken. He does not—at least I think he does not—rightly interpret the signs of the times. The cause of complaint is much deeper and stronger than any mere desire to produce political effect. The gentleman must be aware that, notwithstanding the great vote by which the New York resolutions were carried, and the support given by other proceedings to the removal of the deposits, there are many as ardent friends of the President as are to be found any where, who exceedingly regret and deplore the measure. Sir, on this floor there has been going on, for many weeks, as interesting a debate as has been witnessed for twenty years; and yet I have not heard, among all who have supported the Administration, a single Senator say that he approved the removal of the deposits, or was glad it had taken place, until the gentleman from New York spoke. I saw the gentleman from Georgia approach that point; but he shunned direct contact. He complained much of the Bank; he insisted, too, on the power of removal; but I did not hear him say he thought it a wise act. The gentleman from Virginia [Mr. Rives], not now in his seat, also defended the power, and has arraigned the Bank; but has he said that he approved the measure of removal? I have not met with twenty individuals, in or out of Congress, who have expressed an approval of it, among the many hundreds whose opinions I have heard—not twenty who have maintained that it was a wise proceeding; but I have heard individuals of ample fortune declare, nevertheless, that, since it was done, they would sacrifice all they possessed rather than not support it, although they wholly disapproved of it. Such is the warmth of party zeal.

Sir, it is a mistake to suppose that the present agitation of the country springs from mere party motives. It is a great mistake. Every body is not a politician. The mind of every man in the country is not occupied with the project of subverting one administration, and setting up another. The gentleman has done great injustice to the people. I know, Sir, that great injustice has

been done to the memorialists from Boston, whose resolutions I presented some days since, some of whom are very ardent friends of the President, and can have been influenced by no such motive as has been attributed to them.

But, Mr. President, I think I heard yesterday something from the gentleman from Pennsylvania indicative of an intention to direct the hostility of the country against the Bank, and to ascribe to the Bank, and the Bank alone, the public distress. It was the duty of the Government to have foreseen the consequences of the removal of the deposits; and gentlemen have no right first to attack the Bank, charge it with great offences, and thus attempt to shake its credit, and then complain when the Bank undertakes to defend itself, and to avoid the great risk which must threaten it from the hostility of the Government to its property and character. The Government has placed itself in an extraordinary position, both to the Bank and to the country, by the removal of the deposits; and also to the currency of the country. The bills of the Bank are lawful currency in all payments to Government; yet we see the Executive warring on the credit of this national currency. We have seen the institution assailed, which, by law, was provided to supply the revenue. Is not this a new course? Does the recollection of the gentleman furnish any such instance? What other institution could stand against such hostility? The Bank of England could not stand against it a single hour. The Bank of France would perish at the first breath of such hostility. But the Bank of the United States has sustained its credit under every disadvantage, and has ample means to sustain it to the end. Its credit is in no degree shaken, though its operations are necessarily curtailed. What has the Bank done? The gentleman from New York and the gentleman from Pennsylvania have alleged that it is not because of the removal of the deposits that there is pressure in the country, but because of the conduct of the Bank. The latter gentleman, especially, alleges that the Bank began to curtail its discounts before the removal of the deposits, and at a time when it was only *expected* that they would be removed. Indeed! and did not the Bank, by taking this course, prove that it foresaw correctly what was to take place? and, because it adopted a course of preparation, in order to break the blow which was about to fall upon it, this also is to be added to the grave catalogue of its offences. The Bank, it seems, has curtailed to the amount of nine millions. Has she, indeed? And is not that exactly the amount of deposits which the Government has withdrawn? The Bank, then, has curtailed precisely so much as the Government has drawn away from it. No other bank in the world could have gone on with so small a curtailment. While public confidence was diminishing all

around the Bank, it only curtailed just as much as it lost by the act of the Government. The Bank would be justified, even without the withdrawal of the deposits, in curtailing its discounts gradually, and continuing to do so to the end of its charter, considering the hostility manifested to its further continuance. The Government has refused to recharter it. Its term of existence is approaching: one of the duties which it has to perform is to make its collections; and the process of collection, since it must be slow, ought to be commenced in season. It is, therefore, its duty to begin its curtailments, so as that the process may be gradual.

I hope that I have not been misunderstood in my remarks the other morning. The gentleman from New York has represented me as saying that it is not the removal of the deposits which has caused the public distress. What I said was, that, if the Government had required twice nine millions for its service, the withdrawal of that amount from the Bank, without any interruption of the good understanding between the Government and the Bank, would not have caused this pressure and distrust. Every thing turns on the circumstances under which the withdrawal is made. If public confidence is not shaken, all is well; but, if it is, all—all is difficulty and distress. And this confidence is shaken.

It has been said by the gentleman from New York, that Government has no design against the Bank; that it only desires to withdraw the public deposits. Yet, in the very paper submitted to Congress by the Executive Department, the Bank is arraigned as unconstitutional in its very origin, and also as having broken its charter, and violated its obligations—and its very existence is said to be dangerous to the country! Is not all this calculated to injure the character of the Bank, and to shake confidence? The Bank has its foreign connections, and is much engaged in the business of foreign exchanges; and what will be thought at Paris and London, when the community there shall see all these charges made by the Government against a bank in which they have always reposed the highest trust? Does not this injure its reputation? Does it not compel it to take a defensive attitude? The gentleman from New York spoke of the power in the country to put down the Bank, and of doing as our fathers did in the time of the revolution, and has called on the people to rise and put down this money power, as our ancestors put down the oppressive rule of Great Britain! All this is well calculated to produce the effect which is intended; and all this, too, helps further to shake confidence—it all injures the Bank—it all compels it to curtail more and more.

Sir, I venture to predict that the longer gentlemen pursue the experiment which they have devised, of collecting the public revenue by State banks, the more perfectly will they be satisfied

that it cannot succeed. The gentleman has suffered himself to be led away by false analogies. He says, that when the present Bank expires, there will be the same laws as existed when the old bank expired. Now, would it not be the inference of every wise man, that there will also be the same inconveniences as were then felt? It would be useful to remember the state of things which existed when the first bank was created, in 1791; and that a high degree of convenience, which amounted to political necessity, compelled Congress thus early to create a national bank. Its charter expired in 1811, and the war came on the next year. The State banks immediately stopped payment; and, before the war had continued twelve months, there was a proposition for another United States bank; and this proposal was renewed from year to year, and from session to session. Who supported this proposition? The very individuals who had opposed the former bank, and who had now become convinced of the indispensable necessity of such an institution. It has been verified, by experience, that the Bank is as necessary in time of peace as in time of war; and perhaps more necessary, for the purpose of facilitating the commercial operations of the country, and collecting the revenue, and sustaining the currency. It has been alleged, that we are to be left in the same condition as when the old bank expired, and, of course, we are to be subjected to the same inconveniences. Sir, why should we thus suffer all experience to be lost upon us? For the convenience of the Government and of the country, there must be some bank (at least I think so); and I should wish to hear the views of the Administration as to this point.

The notes and bills of the Bank of the United States have heretofore been circulated every where—they meet the wants of every one—they have furnished a safe and most convenient currency. It is impossible for Congress to enact a certain value on the paper of the State banks. They may say that these banks are entitled to credit; but they cannot legislate them into the good opinion and faith of the public. Credit is a thing which must take its own course. It can never happen that the New York notes will be at par value in Louisiana, or that the notes of the Louisiana banks will be at par value in New York. In the notes of the United States Bank we have a currency of equal value every where; and I say that there is not to be found, in the whole world, another institution whose notes spread so far and wide, with perfect credit in all places. There is no instance of a bank whose paper is spread over so vast a surface of country, and is every where of such equal value. How can it be, that a number of State banks, scattered over two thousand miles of country, subject to twenty-four different State Legislatures and State tribunals, without the possibility of any general concert of

action, can supply the place of one general bank? It cannot be. I see, Sir, in the doctrines which have been advanced to-day, only new distress and disaster, new insecurity, and more danger to property than the country has experienced for many years; because it is in vain to attempt to uphold the occupations of industry, unless property is made secure; or of the value of labor, unless its recompense is safe. But an opportunity will occur for resuming this subject hereafter. I forbear from it for the present.

A word or two on one other point. It was said by me, on a former day, that this immediate question of the deposits does not necessarily draw after it the question of rechartering the Bank of the United States. It leaves that question for future adjustment. But the present question involves high political considerations, which I am not now about to discuss. If the question of the removal of the deposits be not now taken into view, gentlemen will be bound to vote on the resolutions of the Senator from Kentucky, as to the power which has been claimed and exercised. The question, then, is not as to the renewing of the charter of the Bank. But I repeat, that, however gentlemen may flatter themselves, if it be not settled that the deposits are to be restored, nothing will be settled; negative resolutions will not tranquillize the country and give it repose. The question is before the country—all agree that it must be settled by that country. I very much regret that topics are mixed up with the question which may prevent it from being submitted to the calm judgment of the people. Yet I have not lost faith in public sentiment. Events are occurring, daily, which will make the people think for themselves. The industrious, the enterprising, will see the danger which surrounds them, and will awake. If the majority of the people shall then say there is no necessity for a continuance of this sound and universal currency, I will acquiesce in their judgment, because I can do no otherwise than to acquiesce. If the gentleman from New York is right in his reading of the prognostics, and public opinion shall settle down in the way which he desires; and if it be determined here that the public money is to be placed at the disposal of the Executive, with absolute power over the whole subject of its custody and guardianship; and that the general currency is to be left to the control of banks created by twenty-four States;—then, I say, that, in my judgment, one strong bond of our social and political Union is severed, and one great pillar of our prosperity is broken and prostrate.

[Mr. TALLMADGE, of New York, spoke in reply to Mr. WEBSTER, and denied the Constitutional power of Congress to create a bank, although he maintained the power of the Secretary to make use of the State banks.]

The subject being resumed the next day, January 31,

Mr. WEBSTER said: It is not to be denied, Sir, that the financial affairs of the country have come, at last, to such a state, that every man can see plainly the question which is presented for the decision of Congress. We have, unquestionably, before us, now, the views of the Executive, as to the nature and extent of the evils alleged to exist; and its notions, also, as to the proper remedy for such evils. That remedy is short. It is, simply, the system of administration already adopted by the Secretary of the Treasury, and which is nothing but this—that, whenever he shall think proper to remove the public moneys from the Bank of the United States, and place them wherever else he pleases, this act shall stand as the settled policy and system of the country; and this system shall rest upon the authority of the Executive alone. This is now to be our future policy, as I understand the grave, significant import of the remarks made yesterday by the gentleman from New York, and as I perceive they are generally understood, and as they are evidently understood by the gentleman from Mississippi [Mr. POINDEXTER], who has alluded to them on presenting his resolutions this morning. I wish, Sir, to take this, the earliest opportunity, of stating my opinions upon this subject; and that opinion is, that the remedy proposed by the Administration for the evils under which the country is at this time suffering, cannot bring relief, will not give satisfaction, and cannot be acquiesced in. I think the country, on the other hand, will show much dissatisfaction; and that from no motive of hostility to the Government, from no disposition to make the currency of the country turn upon political events, or to make political events turn upon the question of the currency; but simply because, in my judgment, the system is radically defective—totally insufficient—carrying with it little confidence of the public, and none at all more than it acquires merely by the influence of the name which recommends it.

I do not intend now, Mr. President, to go into a regular and formal argument to prove the Constitutional power of Congress to establish a national bank. That question has been argued a hundred times, and always settled the same way. The whole history of the country, for almost forty years, proves that such a power has been believed to exist. All previous Congresses, or nearly all, have admitted or sanctioned it; the judicial tribunals, Federal and State, have sanctioned it. The Supreme Court of the United States has declared the Constitutionality of the present Bank, after the most solemn argument, without a dissenting voice on the bench.

Every successive President has, tacitly or expressly, admitted the power. The present President has done this: he has informed Congress that he could furnish the plan of a bank which should conform to the Constitution. In objecting to the recharter of the present Bank, he objected for particular reasons: and he has said that a bank of the United States would be useful and convenient for the people.

All this authority, I think, ought to settle the question. Both the members from New York, however, are still unsatisfied: they both deny the power of Congress to establish a bank. Now, Sir, I shall not argue the question at this time; but I will repeat what I said yesterday. It does appear to me, that the late measures of the Administration prove incontestably, and by a very short course of reasoning, the Constitutionality of a bank. What I said yesterday, and what I say to-day, is, that, since the Secretary, and all who agree with the Secretary, admit the necessity of the agency of *some* bank to carry on the affairs of Government, I was at a loss to see where they could find power to use a State bank, and yet find no power to create a bank of the United States. The gentleman's perception may be sharp enough to see a distinction between these two cases; but it is too minute for my grasp. It is not said, in terms, in the Constitution, that Congress may create a bank; nor is it said, in terms, that Congress may use a bank created by a State. How, then, does it get authority to do either? No otherwise, certainly, than that it possesses power to pass all laws necessary and proper for carrying its enumerated powers into effect. If a law were now before us for confirming the arrangement of the Secretary, and adopting twenty State banks into the service of the United States, as fiscal agents of the Government, where would the honorable gentleman find authority for passing such a law? No where but in that clause of the Constitution to which I have referred; that is to say, the clause which authorizes congress to pass all laws necessary and proper for carrying its granted powers into effect. If such a law were before us, and the honorable member proposed to vote for it, he would be obliged to prove that the agency of a bank is a thing both necessary and proper for carrying on the Government. If he could not make this out, the law would be unconstitutional. We see the Secretary admits the necessity of this bank agency: the gentleman himself admits it, nay, contends for it. A bank agency is his main reliance. All the hopes expressed by himself or his colleague, of being able to get on with the present state of things, rest on the expected efficiency of a bank agency.

A bank, then, or some bank, being admitted to be both necessary and proper for carrying on the Government, and the Secretary proposing, on that very ground, and no other, to employ the State

banks, how does he make out a distinction between passing a law for using a necessary agent, already created, and a law for creating a similar agent, to be used, when created, for the same purpose? If there be any distinction, as it seems to me, it is rather in favor of creating a bank by the authority of Congress, with such powers, and no others, as the service expected from it requires, answerable to Congress, and always under the control of Congress, than of employing, as our agents, banks created by other governments, for other purposes, and over which this Government has no control.

But, Sir, whichever power is exercised, both spring from the same source; and the power to establish a bank, on the ground that its agency is necessary and proper for the ends and uses of Government, is at least as plainly Constitutional as the power to adopt banks, for the same uses and objects, which are already made by other governments. Indeed, the legal act is, in both cases, the same. When Congress makes a bank, it creates an agency; when it adopts a State bank, it creates an agency. If there be power for one, therefore, there is power for the other. No power to create a corporation is expressly given to Congress; nor is Congress any where forbidden to create a corporation. The creation of a corporation is an act of law, and, when it passes, the only question is, whether it be a necessary and proper law for carrying on the Government advantageously. And the case will be precisely the same when we shall be asked to pass a law for confirming the Secretary's arrangement with State banks. Each is Constitutional, if Congress may fairly regard it as a necessary measure.

The honorable member, Sir, quoted me as having said that I regarded the Bank as one of the greatest bonds of the union of the States. That is not exactly what I said. What I did say was, that the Constitutional power vested in Congress over the legal currency of the country was one of its very highest powers, and that the exercise of this high power was one of the strongest bonds of the union of the States. And this I say still. Sir, the gentleman did not go to the Constitution. He did not tell us how he understands it, or how he proposes to execute the great trust which it devolves on Congress, in respect to the circulating medium. I can only say, Sir, how I understand it.

The Constitution declares that Congress shall have power "to coin money, *regulate the value thereof*, and of foreign coin." And it also declares that "no State shall coin money, emit bills of credit, or make any thing but gold and silver coin a tender in payment of debts." Congress, then, and Congress only, can coin money, and *regulate the value thereof*. Now, Sir, I take it to be a truth, which has grown into an admitted maxim with all the best writers, and the best-informed public men, that those whose duty it is to protect the community against the evils of a debased coin, are

bound also to protect it against the still greater evils of excessive issues of paper.

If the public require protection, says Mr. Ricardo, against bad money, which might be imposed on them by an undue mixture of alloy, how much more necessary is such protection, when paper money forms almost the whole of the circulating medium of the country!

It is not to be doubted, Sir, that the Constitution intended that Congress should exercise a regulating power—a power both necessary and salutary, over that which should constitute the actual money of the country, whether that money were coin, or the representative of coin. So it has always been considered: so Mr. Madison considered it, as may be seen in his message, December, 1816. He there says:

"Upon this general view of the subject, it is obvious that there is only wanting to the fiscal prosperity of the Government the restoration of a uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, ensure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the Treasury to meet the public engagements in the local currency of most of the States; and it is expected that the same cause will produce the same effect throughout the Union. *But for the interests of the community at large, as well as for the purposes of the Treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The Constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description; and the measures which were taken during the last session, in execution of the power, give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and cannot fail to be an important auxiliary to those measures.*"

The State banks put forth paper as representing coin. As such representative, it obtains circulation; it becomes the money of the country; but its amount depends on the will of four hundred different State banks, each acting on its own discretion; and in the absence of every thing preventive or corrective, on the part of the United States, what security is there against excessive issues, and, consequently, against depreciation? The public feels that there is no security against these evils; it has learned this from experience; and this very feeling, this distrust of the paper of State banks, is the very evil which they themselves have to encounter; and it is a very serious evil. They know that confidence in them is far

greater when there exists a power elsewhere to prevent excess and depreciation. Such a power, therefore. is friendly to their best interests. It gives confidence and credit to them, one and all. Hence a vast majority of the State banks—nearly all, perhaps, except those who expect to be objects of particular favor—desire the continuance of a national bank, as an institution highly useful to themselves.

The mode in which the operations of a national institution afford security against excessive issues by local banks, is not violent, coercive, or injurious. On the contrary, it is gentle, salutary, and friendly. The result is brought about by the natural and easy operation of things. The money of the Bank of the United States, having a more wide-spread credit and character, is constantly wanted for purposes of remittance. It is purchased, therefore, for this purpose, and paid for in the bills of local banks; and it may be purchased, of course, at par, or near it, if these local bills are offered in the neighborhood of their own banks, and these banks are in good credit. These local bills then return to the bank that issued them. The result is, that, while the local bills will or may supply, in great part, the local circulation (not being capable, for want of more extended credit, of being remitted to great distances), their amount is thus limited to the purposes of local circulation; and any considerable excess, beyond this, finds, in due season, a salutary corrective.

This is one of the known benefits of the Bank. Every man of business understands it, and the whole country has realized the security which this course of things has produced.

But, Sir, as to the question of the deposits, the honorable gentleman thinks he sees, at last, the curtain raised; he sees the object of the whole debate. He insists that the question of the restoration of the deposits, and the question of rechartering the Bank, are the same question. It strikes me, Sir, as being strange, that the gentleman did not draw an exactly opposite inference from his own premises. He says he sees the northern friends of the Bank, and the southern opposers of the Bank, agreeing for the restoration of the deposits. This is true; and does not this prove that the question is a separate one? On the one question, the North and the South are together; on the other, they separate: either their apprehensions are obtuse, or else this very statement shows the questions to be distinct.

Sir, since the gentleman has referred to the North and the South, I will venture to ask him if he sees nothing important in the aspect which the South presents? On this question of the deposits, does he not behold almost an entire unanimity in the South? How many from the Potomac to the Gulf of Mexico defend the removal? For myself, I declare that I have not heard a member

of Congress from beyond the Potomac say, either in or out of his seat, that he approved the measure. Can the gentleman see nothing in this but proof that the deposit question and the question of recharter are the same? Sir, gentlemen must judge for themselves; but it appears plain enough to me, that the President has lost more friends at the South by this interference with the public deposits than by any or all other measures.

I must be allowed now, Sir, to advert to a remark in the speech of the honorable member from New York on the left of the Chair, [Mr. WRIGHT,] as I find it in a morning paper. It is this:—

"Be assured, Sir, whatever nice distinctions may be drawn here as to the show of influence which expressions of the popular will upon such a subject are entitled to from us, it is possible for that will to assume a Constitutional shape, which the Senate cannot misunderstand, and, understanding, will not unwisely resist."

[Mr. WRIGHT said, it should have been *share* of influence.]

Mr. WEBSTER continued. That does not alter the sense. Mr. President, I wish to keep the avenues of public opinion, from the whole country to the capitol, all open, broad and wide. I desire always to know the state of that opinion on great and important subjects. From me, that opinion always has received, and always will receive, the most respectful attention and consideration. And whether it be expressed by State Legislatures, or by public meetings, or be collected from individual expressions, in whatever form it comes, it is always welcome. But, Sir, the legislation for the United States must be conducted here. The law of Congress must be the will of Congress, and the proceedings of Congress its own proceedings.

I hope nothing intimidating was intended by this expression. [Mr. WRIGHT intimated it was not.] Then, Sir, I forbear further remark.

Sir, there is one other subject on which I wish to raise my voice. There is a topic which I perceive is to become the general war-cry of party, on which I take the liberty to warn the country against delusion. Sir, the cry is to be raised, that this is a question between the poor and the rich. I know, Sir, it has been proclaimed, that one thing was certain—that there was always a hatred from the poor to the rich; and that this hatred would support the late measures, and the putting down of the Bank. Sir, I will not be silent at the threatening of such a detestable fraud on public opinion. If but one man, or ten men, in the nation, will hear my voice, I will still warn them against this attempted imposition.

Mr. President, this is an eventful moment. On the great questions which occupy us, we all look for some decisive movement of

public opinion. As I wish that movement to be free, intelligent, and unbiased, the true manifestation of the public will, I desire to prepare the country for another assault, which I perceive is about to be made on popular prejudice, another attempt to obscure all distinct views of the public good, to overwhelm all patriotism, and all enlightened self-interest, by loud cries against false danger, and by exciting the passions of one class against another. I am not mistaken in the omen; I see the magazine whence the weapons of this warfare are to be drawn. I already hear the din of the hammering of arms, preparatory to the combat. They may be such arms, perhaps, as reason, and justice, and honest patriotism, cannot resist. Every effort at resistance, it is possible, may be feeble and powerless; but, for one, I shall make an effort—an effort to be begun now, and to be carried on and continued, with untiring zeal, till the end of the contest comes.

Sir, I see, in those vehicles which carry to the people sentiments from high places, plain declarations that the present controversy is but a strife between one part of the community and another. I hear it boasted as the unfailing security, the solid ground, never to be shaken, on which recent measures rest, *that the poor naturally hate the rich.* I know, that, under the shade of the roofs of the capitol, within the last twenty-four hours, among men sent here to devise means for the public safety and the public good, it has been vaunted forth, as matter of boast and triumph, that one cause existed, powerful enough to support every thing, and to defend every thing; and that was—*the natural hatred of the poor to the rich.*

Sir, I pronounce the author of such sentiments to be guilty of attempting a detestable fraud on the community; a double fraud; a fraud which is to cheat men out of their property, and out of the earnings of their labor, by first cheating them out of their understandings.

"*The natural hatred of the poor to the rich!*" Sir, it shall not be till the last moment of my existence; it shall be only when I am drawn to the verge of oblivion; when I shall cease to have respect or affection for any thing on earth,—that I will believe the people of the United States capable of being effectually deluded, cajoled, and *driven about in herds*, by such abominable frauds as this. If they shall sink to that point; if they so far cease to be men, thinking men, intelligent men, as to yield to such pretences and such clamor,—they will be slaves already; slaves to their own passions—slaves to the fraud and knavery of pretended friends. They will deserve to be blotted out of all the records of freedom; they ought not to dishonor the cause of self-government, by attempting any longer to exercise it; they ought to keep their unworthy hands entirely off from the cause of republican liberty, if they are capable of being the victims of artifices so shallow, of

tricks so stale, so threadbare, so often practised, so much worn out, on serfs and slaves.

"*The natural hatred of the poor against the rich!*" "The danger of a moneyed aristocracy!" "A power as great and dangerous as that resisted by the revolution!" "A call to a new declaration of independence!"

Sir, I admonish the people against the objects of outcries like these. I admonish every industrious laborer in the country to be on his guard against such delusion. I tell him the attempt is to play off his passions against his interests, and to prevail on him, in the name of liberty, to destroy all the fruits of liberty; in the name of patriotism, to injure and afflict his country; and, in the name of his own independence, to destroy that very independence, and make him a beggar and a slave. Has he a dollar? He is advised to do that which will destroy half its value. Has he hands to labor? Let him rather fold them, and sit still, than be pushed on, by fraud and artifice, to support measures which will render his labor useless and hopeless.

Sir, the very man, of all others, who has the deepest interest in a sound currency, and who suffers most by mischievous legislation in money matters, is the man who earns his daily bread by his daily toil. A depreciated currency, sudden changes of prices, paper money, falling between morning and noon, and falling still lower between noon and night,—these things constitute the very harvest-time of speculators, and of the whole race of those who are at once idle and crafty; and of that other race, too, the Catalines of all times, marked, so as to be known forever by one stroke of the historian's pen, *men greedy of other men's property and prodigal of their own.* Capitalists, too, may outlive such times. They may either prey on the earnings of labor, by their *cent. per cent.*, or they may hoard. But the laboring man—what can he hoard? Preying on nobody, he becomes the prey of all. His property is in his hands. His reliance, his fund, his productive freehold, his all, is his labor. Whether he work on his own small capital, or on another's, his living is still earned by his industry; and when the money of the country becomes depreciated and debased, whether it be adulterated coin or paper without credit, that industry is robbed of its reward. He then labors for a country whose laws cheat him out of his bread. I would say to every owner of every quarter section of land in the West—I would say to every man in the East, who follows his own plough—and to every mechanic, artisan, and laborer, in every city in the country—I would say to every man, every where, who wishes, by honest means, to gain an honest living, "Beware of wolves in sheep's clothing. Whoever attempts, under whatever popular cry, to shake the stability of the public currency, bring on distress in money

matters, and drive the country into paper money, stabs your interest and your happiness to the heart."

The herd of hungry wolves, who live on other men's earnings, will rejoice in such a state of things. A system which absorbs into their pockets the fruits of other men's industry, is the very system for them. A government that produces or countenances uncertainty, fluctuations, violent risings and fallings in prices, and, finally, paper money, is a government exactly after their own heart. Hence these men are always for change. They will never let well enough alone. A condition of public affairs in which property is safe, industry certain of its reward, and every man secure in his own hard-earned gains, is no paradise for them. Give them just the reverse of this state of things; bring on change, and change after change; let it not be known to-day what will be the value of property to-morrow; let no man be able to say whether the money in his pockets at night will be money or worthless rags in the morning; and depress labor till double work shall earn but half a living—give them this state of things, and you give them the consummation of their earthly bliss.

Sir, the great interest of this great country, the producing cause of all its prosperity, is labor! labor! labor! We are a laboring community. A vast majority of us all live by industry and actual occupation in some of their forms.

The Constitution was made to protect this industry, to give it both encouragement and security; but, above all, security. To that very end, with that precise object in view, power was given to Congress over the currency, and over the money system of the country. In forty years' experience, we have found nothing at all adequate to the beneficial execution of this trust but a well-conducted national bank. That has been tried, returned to, tried again, and always found successful. If it be not the proper thing for us, let it be soberly argued against; let something better be proposed; let the country examine the matter coolly, and decide for itself. But whoever shall attempt to carry a question of this kind by clamor, and violence, and prejudice; whoever would rouse the people by appeals, false and fraudulent appeals, to their love of independence, to resist the establishment of a useful institution, because it is a bank, and deals in money; and who artfully urges these appeals wherever he thinks there is more of honest feeling than of enlightened judgment, means nothing but deception. And whoever has the wickedness to conceive, and the hardihood to avow, a purpose to break down what has been found, in forty years' experience, essential to the protection of all interests, by arraying one class against another, and by acting on such a principle as *that the poor always hate the rich*, shows himself the reckless enemy of all. An enemy to his whole country, to all classes,

and to every man in it, he deserves to be marked especially *as the poor man's curse!*

Mr. President, I feel that it becomes me to bring to the present crisis all of intellect, all of diligence, all of devotion to the public good, that I possess. I act, Sir, in opposition to nobody. I desire rather to follow the Administration, in a proper remedy for the present distress, than to lead. I have felt so from the beginning, and I have felt so until the declaration of yesterday made it certain that there is no further measure to be proposed. The expectation is, that the country will get on under the present state of things. Being myself entirely of a different opinion, and looking for no effectual relief until some other measure is adopted, I shall, nevertheless, be most happy to be disappointed. But if I shall not be mistaken, if the pressure shall continue, and if the indications of general public sentiment shall point in that direction, I shall feel it my duty, let the consequences be what they may, to propose a law for *altering and continuing the charter of the Bank of the United States.*

On Saturday, the 22d of February, in a debate on presenting a memorial from Maine, Mr. Forsyth having, on the day before, described what he understood to be the experiment which the Executive Government was trying, in regard to the public deposits—

Mr. Webster rose, and addressed the Senate as follows:—

Mr. President: The honorable member from Georgia stated yesterday, more distinctly than I have before learned it, what that experiment is, which the Government is now trying on the revenues and the currency, and, I may add, on the commerce, manufactures, and agriculture, of this country. If I rightly apprehend him, this experiment is an attempt to return to an exclusive specie currency, first by being able, through the agency of the State banks, to dispense with any bank of the United States; and then to supersede the use of the State banks themselves.

This, Sir, is the experiment. I thank the gentleman for thus stating its character. He has done his duty, and dealt fairly with the people, by this exhibition of what the views of the Executive Government are, at this interesting moment. It is certainly most proper that the people should see distinctly to what end or for what object it is that so much suffering is already upon them, and so much more already in visible and near prospect.

And now, Sir, is it possible?—is it possible that twelve millions of intelligent people can be expected voluntarily to subject themselves to severe distress, of unknown duration, for the purpose of making trial of an experiment like this? Will a nation that is in-

telligent, well-informed of its own interest, enlightened, and capable of self-government, submit to suffer embarrassment in all its pursuits, loss of capital, loss of employment, and a sudden and dead stop in its onward movement in the path of prosperity and wealth, until it shall be ascertained whether this new-hatched theory shall answer the hopes of those who have devised it? Is the country to be persuaded to bear every thing, and bear patiently, until the operation of such an experiment, adopted for such an avowed object, and adopted, too, without the coöperation or consent of Congress, and by the Executive power alone, shall exhibit its results?

In the name of the hundreds of thousands of our suffering fellow-citizens, I ask, for what reasonable end is this experiment to be tried? What great and good object, worth so much cost, is it to accomplish? What enormous evil is to be remedied by all this inconvenience and all this suffering? What great calamity is to be averted? Have the people thronged our doors, and loaded our tables with petitions for relief against the pressure of some political mischief, some notorious misrule, which this experiment is to redress? Has it been resorted to in an hour of misfortune, calamity, or peril, to save the State? Is it a measure of remedy, yielded to the importunate cries of an agitated and distressed nation? Far, Sir, very far from all this. There was no calamity, there was no suffering, there was no peril, when these measures began. At the moment when this experiment was entered upon, these twelve millions of people were prosperous and happy, not only beyond the example of all others, but even beyond their own example in times past.

There was no pressure of public or private distress throughout the whole land. All business was prosperous, all industry was rewarded, and cheerfulness and content universally prevailed. Yet, in the midst of all this enjoyment, with so much to heighten, and so little to mar it, this experiment comes upon us, to harass and oppress us at present, and to affright us for the future. Sir, it is incredible; the world abroad will not believe it; it is difficult even for us to credit it, who see it with our own eyes, that the country, at such a moment, should put itself upon an experiment fraught with such immediate and overwhelming evils, and threatening the property and the employments of the people, and all their social and political blessings, with severe and long-enduring future inflictions.

And this experiment, with all its cost, is to be tried, for what? Why, simply, Sir, to enable us to try another "experiment;" and that other experiment is, to see whether an exclusive specie currency may not be better than a currency partly specie and partly bank paper! The object to which, it is hoped, we may

arrive, by patiently treading this path of endurance, is to banish from the country all bank paper, of all kinds, and to have coined money, and coined money only, as the actual currency of the country!

Now, Sir, I altogether deny that such an object is at all desirable, even if it could be obtained. I know, indeed, that all paper ought to circulate on a specie basis; that all bank notes, to be safe, must be convertible into gold and silver at the will of the holder; and I admit, too, that the issuing of very small notes, by many of the State banks, has too much reduced the amount of specie actually circulating through the pockets of the people. It may be remembered that I called the attention of Congress to this subject in 1832, and that the bill which then passed both Houses, for renewing the Bank charter, contained a provision designed to produce some restraint on the circulation of very small notes. I admit there are conveniences in making small payments in specie; and I have always not only admitted, but contended, that, if all issues of bank notes under five dollars were discontinued, much more specie would be retained in the country, and in the circulation; and that great security would be derived from this. But we are now debating about an *exclusive* specie currency; and I deny that an exclusive specie currency is the best currency for any highly commercial country; and I deny, especially, that such a currency would be best suited to the condition and circumstances of the United States. With the enlightened writers and practical statesmen of all commercial communities, in modern times, I have supposed it to be admitted, that a well-regulated, properly-restrained, safely-limited paper currency, circulating on an adequate specie basis, was a thing to be desired—a political public advantage, to be obtained, if it may be obtained; and, more especially, I have supposed that, in a new country, with resources not yet half developed, with a rapidly-increasing population, and a constant demand for more and more capital; that is to say, in just such a country as the United States are, I have supposed a safe and well-regulated paper currency to be allowed to produce particular and extraordinary advantages; because, in such a country, well-regulated bank paper not only supplies a convenient medium of payments and of exchange, but also, by the expansion of that medium in a reasonable and safe degree, the amount of circulation is kept more nearly commensurate with the constantly-increasing amount of property; and an extended capital, in the shape of credit, comes to the aid of the enterprising and the industrious. It is precisely on this credit, created by reasonable expansion of the currency in a new country, that men of small capital carry on their business. It is exactly by means of this, that industry and enterprise are stimulated. If we were driven back to an entire gold

and silver currency, the necessary and inevitable consequence would be, that all trade must fall into the hands of large capitalists. This is so plain, that no man of reflection can doubt it; I know not, therefore, in what words to express my astonishment, when I hear it said that the present measures of Government are intended for the good of the many instead of the few—for the benefit of the poor, and against the rich; and when I hear it proposed, at the same moment, to do away the whole system of credit, and place all trade and commerce, therefore, in the hands of those who have competent capital to carry them on, without the use of any credit at all. This, Sir, would be dividing society, by a precise, distinct, and well-defined line, into two classes; first, the small class, who have competent capital for trade, when credit is out of the question; and, secondly, the vastly-numerous class of those whose living must become, in such a state of things, a mere manual occupation, without the use of capital, or of any substitute for capital.

Now, Sir, it is the effect of a well-understood system of paper credit to break in upon this line, thus dividing the many from the few, and to enable more or less of the more numerous class to pass over it, and to participate in the profits of capital, by means of a safe and convenient substitute for capital; and thus to diffuse, vastly more widely, the general earnings, and therefore the general prosperity and happiness, of society. Every man of observation must have witnessed, in this country, that men of heavy capital have constantly complained of bank circulation, and a consequent credit system, as injurious to the rights of capital. They undoubtedly feel its effects. All that is gained by the use of credit is just so much subtracted from the amount of their own accumulations, and so much the more has gone to the benefit of those who bestow their own labor and industry on capital in small portions. To the great majority this has been of incalculable benefit in the United States; and, therefore, Sir, whoever attempts the entire overthrow of the system of bank credit, aims a deadly blow at the interest of that great and industrious class, who, having some capital, cannot, nevertheless, transact business without some credit; and can mean nothing else, if it have any intelligible meaning at all, than to turn all such persons over to the long list of mere manual laborers. What else can they do, with not enough of absolute capital, and with no credit? This, Sir, this is the true tendency and the unavoidable result of these measures, which have been undertaken with the patriotic object of assisting the poor against the rich!

Sir, I am well aware that bank credit may be abused. I know that there is another extreme, exactly the opposite of that of which I have now been speaking, and no less sedulously to be avoided.

I know that bank paper may become excessive; that depreciation will then follow; and that the evils, the losses, and the frauds, consequent on a disordered currency, fall on the rich and the poor together, but with especial weight of ruin on the poor. I know that the system of bank credit must always rest on a specie basis, and that it constantly needs to be strictly guarded and properly restrained; and it may be so guarded and restrained. We need not give up the good which belongs to it, through fear of the evils which may follow from its abuse. We have the power to take security against these evils. It is our business, as statesmen, to adopt that security; it is our business not to prostrate, or attempt to prostrate, the system; but to use those means of precaution, restraint, and correction, which experience has sanctioned, and which are ready at our hands.

It would be to our everlasting reproach, it would be placing us below the general level of the intelligence of civilized states, to admit that we cannot contrive means to enjoy the benefits of bank circulation, and of avoiding, at the same time, its dangers. Indeed, Sir, no contrivance is necessary. It is *contrivance*, and the love of contrivance, that spoils all. We are destroying ourselves by a remedy which no evil called for. We are ruining perfect health by nostrums and quackery. We have lived, hitherto, under a well-constructed, practical and beneficial system; a system not surpassed by any in the world; and it seems to me to be presuming largely, largely indeed, on the credulity and self-denial of the people, to rush, with such sudden and impetuous haste, into new schemes and new theories, to overturn and annihilate all that we have so long found useful.

Our system has, hitherto, been one in which paper has been circulating on the strength of a specie basis; that is to say, when every bank note was convertible into specie at the will of the holder. This has been our guard against excess. While banks are bound to redeem their bills, by paying gold and silver on demand, and are at all times able to do this, the currency is safe and convenient. Such a currency is not paper money, in the odious sense. It is not like the continental paper of revolutionary times; it is not like the worthless bills of banks which have suspended specie payments. On the contrary, it is the representative of gold and silver, and convertible into gold and silver on demand, and, therefore, answers the purposes of gold and silver; and so long as its credit is in this way sustained, it is the cheapest, the best, and the most convenient circulating medium. I have already endeavored to warn the country against irredeemable paper; against bank paper, when banks do not pay specie for their own notes; against that miserable, abominable and fraudulent policy, which attempts to give value to any paper, of any bank, one single

moment longer than such paper is redeemable on demand in gold and silver. And I wish most solemnly and earnestly to repeat that warning. I see danger of that state of things ahead. I see imminent danger that more or fewer of the State banks will stop specie payments. The late measure of the Secretary, and the infatuation with which it seems to be supported, tend directly and strongly to that result. Under pretence, then, of a design to return to a currency which shall be all specie, we are likely to have a currency in which there shall be no specie at all. We are in danger of being overwhelmed with irredeemable paper—mere paper, representing not gold, nor silver; no, Sir, representing nothing but broken promises, bad faith, bankrupt corporations, cheated creditors, and a ruined people. This, I fear, Sir, may be the consequence, already alarmingly near, of this attempt—unwise, if it be real, and grossly fraudulent, if it be only pretended—of establishing an exclusive hard-money currency!

But, Sir, if this shock could be avoided, and if we could reach the object of an exclusive metallic circulation, we should find in that very success serious and insurmountable inconveniences. We require neither irredeemable paper, nor yet exclusive hard money. We require a mixed system. We require specie, and we require, too, good bank paper, founded on specie, representing specie, and convertible into specie on demand. We require, in short, just such a currency as we have long enjoyed, and the advantages of which we seem now, with unaccountable rashness, about to throw away.

I avow myself, therefore, decidedly against the object of a return to an exclusive specie currency. I find great difficulty, I confess, in believing any man serious in avowing such an object. It seems to me rather a subject for ridicule, at this age of the world, than for sober argument. But if it be true that any are serious for the return of the gold and silver age, I am seriously against it.

Let us, Sir, anticipate, in imagination, the accomplishment of this grand experiment. Let us suppose that, at this moment, all bank paper was out of existence, and the country full of specie. Where, Sir, should we put it, and what should we do with it? Should we ship it, by cargoes, every day, from New York to New Orleans, and from New Orleans back to New York? Should we encumber the turnpikes, the rail-roads and the steam-boats with it, whenever purchases and sales were to be made in one place of articles to be transported to another? The carriage of the money would, in some cases, cost half as much as the carriage of the goods. Sir, the very first day, under such a state of things, we should set ourselves to the creation of banks. This would become immediately necessary and unavoidable. We may assure

ourselves, therefore, without danger of mistake, that the idea of an exclusive metallic currency is totally incompatible, in the existing state of the world, with an active and extensive commerce. It is inconsistent, too, with the greatest good of the greatest number; and therefore I oppose it.

But, Sir, how are we to get through the first experiment, so as to be able to try that which is to be final and ultimate—that is to say, how are we to get rid of the State banks? How is this to be accomplished? Of the Bank of the United States, indeed, we may free ourselves readily; but how are we to annihilate the State banks? We did not speak them into being; we cannot speak them out of being. They did not originate in any exercise of our power; nor do they owe their continuance to our indulgence. They are responsible to the States; to us they are irresponsible. We cannot act upon them; we can only act with them; and the expectation, as it would appear, is, that, by zealously coöperating with the Government in carrying into operation its new theory, they may disprove the necessity of their own existence, and fairly work themselves out of the world! Sir, I ask once more, Is a great and intelligent community to endure patiently all sorts of suffering for phantasies like these? How charmingly practicable, how delightfully probable, all this looks!

I find it impossible, Mr. President, to believe that the removal of the deposits arose in any such purpose as is now avowed. I believe all this to be an after-thought. The removal was resolved on, as a strong measure against the Bank; and now that it has been attended with consequences not at all apprehended from it, instead of being promptly retracted, as it should have been, it is to be justified on the ground of a grand experiment, above the reach of common sagacity, and dropped down, as it were, from the clouds, "to witch the world with noble policy." It is not credible,—not possible, Sir,—that, six months ago, the Administration suddenly started off to astonish mankind with their new inventions in politics, and that it then began its magnificent project by removing the deposits as its first operation. No, Sir, no such thing. The removal of the deposits was a blow at the Bank, and nothing more; and if it had succeeded, we should have heard nothing of any project for the final putting down of all State banks. No, Sir, not one word. We should have heard, on the contrary, only of their usefulness, their excellence, and their exact adaptation to the uses and necessities of this Government. But the experiment of making successful use of State banks having failed, completely failed, in this the very first endeavor; the State banks having already proved themselves not able to fill the place and perform the duties of a national bank, although highly useful in their appropriate sphere; and the disastrous consequences of

the measures of Government coming thick and fast upon us—the professed object of the whole movement is at once changed, and the cry now is, Down with all the State banks! down with all the State banks! and let us return to our embraces of solid gold and solid silver!

Sir, I have no doubt that, if there are any persons in the country, who have seriously wished for such an event as the extinction of all banks, they have not, nevertheless, looked for the absence of all paper circulation. They have only looked for issues of paper from another quarter.

We have already had distinct intimations that paper might be issued on the foundation of the *revenue*. The Treasury of the United States is intended to become the bank of the United States, and the Secretary of the Treasury is meant to be the great national banker. Sir, to say nothing of the crudity of such a notion, I may be allowed to make one observation upon it. We have heretofore heard much of the danger of consolidation, and of the great and well-grounded fear of the union of all powers in this Government. Now, Sir, when we shall be brought to the state of things in which all the circulating paper of the country shall be issued directly by the Treasury Department, under the immediate control of the Executive, we shall have consolidation with a witness!

Mr. President, this experiment will not amuse the people of this country. They are quite too serious to be amused. Their suffering is too intense to be sported with.

Assuredly, Sir, they will not be patient as bleeding lambs under the deprivation of great present good, and the menace of unbearable future evils. They are not so unthinking—so stupid, I may almost say—as to forego the rich blessings now in their actual enjoyment, and trust the future to the contingencies and the chances which may betide an unnecessary and a wild experiment. They will not expose themselves at once to injury and to ridicule. They will not buy reproach and scorn at so dear a rate. They will not purchase the pleasure of being laughed at by all mankind at a price quite so enormous.

Mr. President, the objects avowed, in this most extraordinary measure, are altogether undesirable. The end, if it could be obtained, is an end fit to be strenuously avoided; and the process adopted to carry on the experiment, and to reach that end (which it can never attain, and which, in that respect, wholly fails), does not fail, meantime, to spread far and wide a deep and general distress, and to agitate the country beyond any thing which has heretofore happened to us in a time of peace.

Sir, the people, in my opinion, will not support this experiment. They feel it to be afflictive, and they see it to be ridiculous; and

ere long, I verily believe, they will sweep it away with the resistless breath of their own voice, and bury it up with the great mass of the detected delusions and rejected follies of other times. I seek, Sir, to shun all exaggeration. I avoid studiously all inflammation and all emblazoning. But I beseech gentlemen to open their eyes and their ears to what is passing in the country, and not to deceive themselves with the hope that things can long remain as they are, or that any beneficial change will come until the present policy shall be totally abandoned. I attempted, Sir, the other day, to describe shortly the progress of the public distress. Its first symptom was spasm, contraction, agony. It seizes first the commercial and trading classes. Some survive it, and some do not. But those who, with whatever loss, effort, and sacrifice, get through the crisis without absolute bankruptcy, take good care to make no new engagements till there shall be a change of times. They abstain from all further undertakings; and this brings the pressure immediately home to those who live by their employments. That great class now begin to feel the distress. Houses, warehouses, and ships, are not now, as usual, put under contract in the cities. Manufacturers are beginning to dismiss their hands on the sea-coast and in the interior; and our artisans and mechanics, acting for themselves only, are likely soon to feel a severe want of employment in their several occupations.

This, Sir, is the real state of things. It is a state of things which is daily growing worse and worse. It calls loudly for remedy; the people demand remedy, and they are likely to persist in that demand till remedy shall come.

For one, Sir, I have no new remedy to propose. My sentiments are known. I am for rechartering the Bank, for a longer or a shorter time, and with more or less of modification. I am for trying no new experiments on the property, the employments and the happiness of the whole people.

Our proper course appears to me to be as plain and direct as the Pennsylvania Avenue. The evil which the country endures, although entirely new in its extent, its depth, and its severity, is not new in its class. Other such like evils, but of much milder form, we have felt in former times. In former times, we have been obliged to encounter the ills of disordered currency, of a general want of confidence, and of depreciated State bank paper. To these evils we have applied the remedy of a well-constituted national bank, and have found it effectual. I am for trying it again. Approved by forty years' experience, sanctioned by all successive administrations, and by Congress at all times, and called for, as I verily believe, at this very moment, by a vast majority of the people, on what ground do we resist the remedy of a national bank? It is painful, Sir, most painful, to allude to the extraor-

dinary position of the different branches of the Government; but it is necessary to allude to it. This House has once passed a bill for rechartering the present Bank. The other House has also passed it, but it has been negatived by the President; and it is understood that strong objections exist with the Executive to any bank incorporated, or to be incorporated, by Congress.

Sir, I think the country calls, and has a right to call, on the Executive to reconsider these objections, if they do exist. Peremptory objections to all banks created by Congress have not yet been formally announced. I hope they will not be. I think the country demands a revision of any opinions which may have been formed on this matter, and demands, in its own name, and for the sake of the suffering people, that one man's opinion, however elevated, may not oppose the general judgment. No man in this country should say, in relation to a subject of such immense interest, that my single will shall be the law.

It does not become any man, in a government like this, to stand proudly on his own opinion, against the whole country. I shall not believe, until it shall be so proved, that the Executive will so stand. He has, himself, more than once, recommended the subject to the consideration of the people, as a subject to be discussed, reasoned on, and decided. And if the public will, manifested through its regular organs, the Houses of Congress, shall demand a recharter for a longer or a shorter time, with modifications to remove reasonable and even plausible objections, I am not prepared to believe that the decision of the two Houses, thus acting in conformity to the known will of the people, will meet a flat negative. I shall not credit that, till I see it. I certainly shall propose, ere long, if no change or no other acceptable proposition, be made, to make the trial. As I see no other practical mode of relief, I am for putting this to the test. The first thing to be done is to approve or disapprove the Secretary's reasons. Let us come to the vote, and dispose of those reasons. In the mean time, public opinion is manifesting itself. It appears to me to grow daily stronger and stronger. The moment must shortly come when it will be no longer doubtful whether the general public opinion does call for a recharter of the Bank. When that moment comes, I am for passing the measure, and shall propose it. I believe it will pass this House; I believe it cannot be, and will not be, defeated in the other, unless relief appears in some other form.

Public opinion will have its way in the houses of legislation and elsewhere: the people are sovereign; and whatever they determine to obtain must be yielded to them. This is my belief, and this is my hope. I am for a bank as a measure of expediency, and, under our present circumstances, a measure of necessity. I yield to no new-fangled opinions, to no fantastical experi-

ments. I stand by the tried policy of the country. I go for the safety of property, for the protection of industry, for the security of the currency. And, for the preservation of all these great ends, I am for a bank; and, as the measure most likely to succeed, I am for continuing this Bank, with modifications, for a longer or a shorter period. This is the measure which I shall propose, and, on this question, I refer myself, without hesitation, to the decision of the country.

At a subsequent period of the same debate, in answer to observations of Mr. Forsyth

Mr. Webster said: The gentleman asks, What could be done if this House should pass a bill renewing the Bank charter, and the other House should reject it? Sir, all I can say to this is, that the question would then be one between that other House and the people. I speak, Sir, of that honorable House with the same respect as of this. Neither is likely to be found acting, for a long time, on such a question as this, against the clear and well-ascertained sense of the country. Depend upon it, Sir, depend upon it, this "experiment" cannot succeed. It will fail—it has failed—it is a complete failure already

Something, then, is to be done, and what is it? Congress cannot adjourn, leaving the country in its present condition. This is certain. Each House, then, as I think, will be obliged to propose something, or to concur in something. Public opinion will require it. Sir, negative votes settle nothing. If either House should vote against a bank to-day, nothing would be determined by it, except for the moment. The proposition would be renewed, or something else proposed. The great error lies in imagining that the country will be quieted and settled, if one House, or even both, should pass votes approving the conduct of the Secretary in removing the public deposits. This is a grand mistake. The disturbing and exciting causes exist, not in men's opinions, but in men's affairs. It is not a question of theoretic right or wrong, but a question of deep suffering, and of necessary relief. No votes, no decisions, still less any debates, in Congress, will restore the country to its former condition *without the interposition and aid of some positive measure of relief.* Such a measure will be proposed: it will, I trust, pass this House. Should it be rejected elsewhere, consequences will not lie at our door. But I have the most entire belief, that, from absolute necessity, and from the imperative dictate of the public will, a proper measure must pass, and will pass, into the form of law.

The honorable gentleman, like others, always takes it for

granted, as a settled point, that the people of the United States have decided that the present Bank shall not be renewed. I believe no such thing. I see no evidence of any such decision. It is easy to assume all this. The Secretary assumed it, and gentlemen follow his example, and assume it themselves. Sir, I think the lapse of a few months will correct the mistake, both of the Secretary and of the gentlemen.

The honorable member has suggested another idea, calculated, perhaps, to produce a momentary impression. It has been urged in other quarters; and it is, that, if the Bank charter be renewed now, it will necessarily become perpetual. Sir, if the gentleman only means that, if we now admit the necessity or utility of a national bank, we must always, for similar reasons, have one hereafter, I say, with frankness, that, in my opinion, until some great change of circumstances shall take place, a national institution of that kind will always be found useful. But if he desires to produce a belief that a renewal of its charter now would make *this* Bank perpetual, under its present form, or under any form, I do not at all concur in his opinion. Sir, nobody proposes to renew the Bank, except for a limited period. At the expiration of that period, it will be in the power of Congress, just as fully as it is now, to continue its charter still further, or to amend it, or let it altogether expire. And what harm or danger is there in this? The charter of the Bank of England, always granted for limited periods, has been often renewed, with various conditions and alterations, and has now existed, I think, under these renewals, nearly one hundred and fifty years. Its last term of years was about expiring recently, and the Reform Parliament have seen no wiser way of proceeding than to incorporate into it such amendments as experience had shown necessary, and to give it a new lease. And this, as it appears to me, is precisely the course which the interest of the people of the United States requires in regard to our own Bank. The danger of perpetuity is wholly unfounded, and all alarm on that score is but false alarm. The Bank, if renewed, will be as much subject to the will and pleasure of Congress, as a new bank with a similar charter, and will possess no more claim than a new one for further continuance hereafter.

The honorable gentleman quotes me, Mr. President, as having said, on a former occasion, that, if Congress shall refuse to recharter the Bank, the country will yet live through the difficulty. Why, certainly, Sir, I trust it will live through it. I believe the country capable of self-government, and that they will remedy not only such evils as they cannot live through, but other evils also, which they could live through, and which they would bear, if necessary, but which, nevertheless, being great evils, and wholly unnecessary, they are not disposed to endure. Is the gentleman

entirely satisfied, if he can only persuade himself that the country can live under the evils inflicted on it by these measures of the Executive Government? Sir, I doubt not the people will live through their difficulties; and one way of living through them is to put a speedy close to them. The people have only to will it, and all their present sufferings are at an end. These sufferings flow from no natural cause. They come not from famine or pestilence, nor from invasion or war, or any external public calamity. They spring directly and exclusively from the unwise and unjustifiable interference of the Secretary of the Treasury with the public moneys. By this single act, he has disordered the revenue, deranged the currency, broken up commercial confidence, created already a thousand bankruptcies, and brought the whole business of the country into a state of confusion and dismay. This is a political evil, and a political evil only. It arises from mismanagement entirely and exclusively. This mismanagement, this sole cause of the whole distress, the people can correct. They have but to speak the word, and it is done. They have but to say so, and the public treasure will return to its proper place, and the public prosperity resume its accustomed course.

They have but to utter this supreme command, these words of high behest; they have but to give to the public voice that imperative unity which all must hear, and all must obey; and the reign of misrule and the prevalence of disaster will expire together. Public sufferings will then be removed by removing their cause. Political mischiefs will be repaired by political redress. That which has been unwisely done will be wisely undone; and this is the way, Sir, in which an enlightened and independent people *live through their difficulties*. And, Sir, I look to no other source for relief; but I look confidently to this. I dare not, indeed, under present appearances, predict an immediate termination of present trouble: that would be rash. It may take time for the people to understand one another in different parts of the country, and to unite in their objects and in their means. Circumstances may delay this union of purpose and union of effort. I know there are powerful causes, now in full activity, which may not only prolong, but increase, the commotion of the political elements. I see indications that a storm is on the wing. I am not ignorant of the probable approach of a crisis in which contending parties, and contending passions, are to be intensely excited; in which the great interests of the country are all to be deeply convulsed; and which, in its consequences, may even touch the action of the Government itself. In preparing to meet such a crisis, should it come, I found myself on those great truths, which our own experience and the experience of all other nations have established.

I yield to no new-fangled theories, to no wild and rash experiments. I stand, too, upon those high duties which the Constitution of the country has devolved upon us; and, thus holding on, and holding fast, by acknowledged truth and manifest duty, I shall take events as they come; and although these black and portentous clouds may break on our heads, and the tempest overpower us for a while, still that can never be forever overwhelmed, that can never go finally to the bottom, which truth and duty bear up.

On Friday, March 7, in presenting a memorial from the Building Mechanics of the City and County of Philadelphia, Mr. Webster addressed the Senate as follows:—

I rise, Sir, to perform a pleasing duty. It is to lay before the Senate the proceedings of a meeting of the building mechanics of the City and County of Philadelphia, convened for the purpose of expressing their opinions on the present state of the country, on the 24th of February. This meeting consisted of *three thousand persons*, and was composed of carpenters, masons, brickmakers, bricklayers, painters and glaziers, lime-burners, plasterers, lumber merchants, and others, whose occupations are connected with the building of houses. I am proud, Sir, that so respectable, so important, and so substantial a class of mechanics have intrusted me with the presentment of their opinions and feelings, respecting the present distress of the country, to the Senate. I am happy if they have seen, in the course pursued by me here, a policy favorable to the protection of their interest, and the prosperity of their families. These intelligent and sensible men—these highly-useful citizens—have witnessed the effect of the late measures of Government upon their own concerns; and the resolutions which I have now to present, fully express their convictions on the subject. They propose not to reason, but to testify; they speak what they do know.

Mr. President, the members of this meeting have not transmitted their proceedings by mail; nor have they rested satisfied with merely causing them, in any way, to reach the two Houses of Congress, and to be read and disposed of in the ordinary manner. They have forwarded them by a committee of *thirty persons* of their own body; and those thirty persons are now within the walls of the Senate. I wish, Sir, that honorable Senators would converse with these gentlemen; I wish they would use the opportunity of satisfying themselves of their intelligence, their fairness, their freedom from the influence of all oblique or improper motives, and the unquestionable truth of the existence of that distress

which they come here to represent. Such a communication would convince honorable members, that there is no pretence, no fiction, no exaggeration, in the whole matter; but that all their words are words of truth and soberness.

Mr. President, Congress has now been a good while in session. When we left our respective homes, the pressure had not come on; and we left our friends and neighbors prosperous and happy. We have been here three months, without intercourse with our constituents and our neighbors. In the meantime, the whole condition of things is changed, fearfully changed; and, I verily believe, we do not fully know or feel the full extent of this change, and all the difficulty and distress which now pervade the people. If we were at home; if we were each in our own respective circles, amidst the men of business, and mingling with all classes; and if we were hearing, as in that case we should hear, every hour, of more and more trouble, of new individual disasters, and of still increasing fear and alarm; and if we could witness, as we then should witness, the despondency of those heads of families whose occupations and means of living have been thus suddenly cut off, we should be convinced that it is the imperative and solemn duty of Congress to relieve the country without a moment's delay. Sir, if half the time and the study, which are now devoted to the finding out of plausible arguments to justify the Secretary, were given to an honest and thorough inquiry into the real state of the country, I fully believe all would see the absolute necessity of immediate redress. Sir, while we sit here, in long debates, the country is plunging deeper and deeper in distress. We must not turn away from this. Sir, let us keep our eyes earnestly on the country; for, be assured, the eyes of the country are kept earnestly on us. And let us, Sir, take this occasion to look into facts, and examine particulars. Let us see whether there be any thing, and, if so, what it is, of which these, our fellow-citizens, complain. Do they only join in a general cry raised by others? Do they deal in unmeaning generalities, and set up an undefined and invisible cause of distress? Sir, listen to the statement; hear the facts. The committee state, Sir, that *eight thousand* persons are ordinarily employed in building houses, in the city and county of Philadelphia—a number which, with their families, would make quite a considerable town. They further state, that the average number of houses, which this body of mechanics has built, for the last five years, is *twelve hundred* houses a year. The average cost of these houses is computed at *two thousand* dollars each. Here is a business, then, Sir, *of two millions four hundred thousand dollars* a year. Such *has been* the average of the last five years. And what *is it* now? Sir, the committee state that the business has fallen off *seventy-five per cent.* at least; that is to

say, that, at most, only one quarter part of their usual employment now remains. This is the season of the year in which building contracts are made. It is now known what is to be the business of the year. Many of these persons, who have heretofore had, every year, contracts for several houses on hand, have this year no contract at all. They have been obliged to dismiss their hands, to turn them over to any scraps of employment they could find, or to leave them in idleness, for want of any employment. But, Sir, let us look into the particulars of this case still a little further. It is well for us to dwell on them. As we have facts before us useful for us to know, let us not hasten away from them.

Sir, how has this building business been usually carried on? Has it been by employing these mechanics as mere day-laborers? No, Sir; that, probably, would be generally the case in other countries; but in this, hitherto, and especially of late years, something better has been done by the building mechanics. Many of our young beginners, say the committee, buy a lot, partly for cash, and perhaps mostly on credit. They go to work, and build a house upon it; those who furnish bricks and lumber having a lien on the land for their security. They thus unite capital, or its substitute, credit, with their labor; and by prudent management, in prosperous times, they are able to sell their houses, when thus built and completed, at prices handsomely remunerating them. They are thus proprietors and owners, as well as laborers; and this practical ownership of property, this substantial interest in the community, is one of the causes which give independence and respectability to the mechanics in the cities of the United States, far beyond the general experience of other countries. But see, Sir, how the Secretary's "experiment" has affected the interest of these persons. On the one hand, they can now obtain no new credits, they can commence no new operations on their own account, and other and richer persons will not build houses in the present state of things; so that these mechanics are out of employment; and, on the other hand, nobody buys, at fair and usual prices, the houses which they have already built; but they are obliged to sell them to capitalists, or others, at great loss. At the same time, therefore, that they are deprived of employment for the present, and the hope of it for the future, they are subjected, also, to great sacrifices in the earnings of former years.

These, Sir, are plain matters of fact; and they are manifestly the results of the measures of Government: and have not these mechanics, then, a right to complain? Ought they to hold their tongues, and starve, in order to enable the Secretary to try his experiment? Are they to be the willing victims of such fantastical and arrogant schemes? No, Sir; that is not their notion of patriotism and duty. They think the Government was established

for them, and the rest of the people of the United States, for their protection, security, and happiness. They think it not a subject for the practice of every raw conceit, every presumptuous theory, every impulse of arrogant and self-sufficient love of change. Sir, they are not the dupes of the Secretary's experiment; and, if they can help it, they do not intend to be its victims. They know full well in what purpose these measures originated, which have since obtained the name of the "experiment." They think they have a right to demand of Congress not to sanction such purposes, to their ruin. As American citizens, they demand the shelter of the laws; as tax-payers to Government, they demand the protection of Government; as industrious citizens, they demand security for their industry; and they protest, solemnly protest—in their name, Sir, in their behalf, in their presence, I now enter their protest—against these unnecessary and wanton measures, which destroy their property, break up their employments, and reduce them and their children to want and beggary!

Mr. President, the Senate will perceive, that, in one of the resolutions, this meeting of mechanics expressed their hope that the governor of Pennsylvania would adhere to his former opinions, and lend his countenance and support to the restoration of the currency, by rechartering the Bank. In this hope they have been disappointed. They feel it to be a great misfortune, certainly, that they do not come here, sustained by the government of the State at home. No doubt, Sir, it is a great misfortune; at least, I agree with them in thinking it such. They most assuredly had expected a different result to the governor's deliberations. In addition to their intense individual interest in this great question, they feel an interest, also, in the public works of the State, which have come, or may come, to a stop, in consequence of the pressure of the times; although it is true, perhaps, that they have not so direct an interest as their fellow-citizens of Lancaster county, whose memorial has just been presented, since the great western railway is to penetrate that important county from end to end. I refer to the proceedings of Governor Wolf, Sir, with entire respect, personal and public; but I cannot help expressing my deep regret at the views which he seems to have adopted. I would even hope that the subject has not yet passed beyond his reconsideration, because I am fully aware of the weight and influence of Pennsylvania on this great question. Yet, Sir, I see nothing in this proceeding to alter my own view in the slightest degree. The state of things is not changed. The promulgation of such opinions by the chief magistrate of Pennsylvania, is, in my judgment, unfortunate, because its only effect is to prolong the sufferings of the country, by postponing the only adequate remedy.

Sir, the agitations of the country are not to be hushed by au-

thority. Opinions, from however high quarters, will not quiet them. The condition of the nation calls for action, for measures, for the prompt interposition of Congress; and, until Congress shall act, be it sooner or be it later, there will be no content, no repose, no restoration of former prosperity. Whoever supposes, Sir, that he, or that any man, can quiet the discontents, or hush the complaints of the people, by merely saying, "Peace, be still!" mistakes, shockingly mistakes, the real condition of things. It is an agitation of interests, not of opinions; a severe pressure on men's property and their means of living, not a barren contest about abstract sentiments. Even, Sir, the voice of party, often so sovereign, is not of power to subdue discontents and stifle complaints. The people, Sir, feel great interests to be at stake; and they are rousing themselves to protect those interests. They consider the question to be, whether the government is made for the people, or the people for the government. They hold the former of these two propositions, and they mean to prove it.

Mr. President, this measure of the Secretary has produced a degree of evil that cannot be borne. Talk about it as we will, it cannot be borne. A tottering state of credit; cramped means; loss of property, and loss of employment; doubts of the condition of others; doubts of their own condition; constant fear of failures and new explosions; an awful dread of the future,—Sir, when a consciousness of all these things accompanies a man, at his breakfast, his dinner, and his supper; when it attends him through his hours both of labor and rest; when it even disturbs and haunts his dreams; and when he feels, too, that that which is thus gnawing upon him is the pure result of foolish and rash measures of Government,—depend upon it, he will not bear it. A deranged and disordered currency; the ruin of occupation; distress for present means; the prostration of credit and confidence; and all this without hope of improvement or change,—is a state of things which no intelligent people can long endure.

On Tuesday, March 18th, Mr. Webster presented a Memorial from citizens of Boston, with the following remarks:—

Mr. Webster said, that it would be perceived by the Senate, that he had a roll before him of no ordinary dimensions. It was a protest, respectfully addressed to both Houses of Congress, against the recent proceedings of the Executive Government in regard to the public moneys of the United States, and urgently requesting Congress, by the interposition of its own just authority,

to restore the Constitution and laws to that free and proper action which the public interest and prosperity demanded. This paper, Sir, said Mr. W., proceeded from a place not altogether obscure—not altogether unknown in the history of the United States. It came from the people of Boston, assembled in Faneuil Hall: it came from those walls in which the earliest accents of independence rang—from under that roof beneath which our young American Liberty shook her wings, ere she went forth, for the first time, to fly over a thousand hills, and to proclaim independence to three millions of souls. It was sent by those, and the sons of those, who, in the same place, in '74, '75, and '76, had heard the voices of Otis, of Warren, and of Hancock, and who gave to those distinguished speakers as much patriotic impulse as they received from them.

This paper, Mr. W. said, was signed by 6841 independent voters, tax-payers, and men of property of the city of Boston. Here were no men of straw. This paper presented the names of men of different habits and occupations, electors of that city; and, so far as he knew, of a greater number of persons than any excited election had ever called together before. The names were here for the inspection of the Senate; and his colleague, who was well acquainted with many of them, could vouch for their high standing and respectability. Whatever character the memorial might bear elsewhere, it here challenged investigation. The sentiments of the meeting at which the memorial was agreed upon approached nearer to a feeling of unanimity than was usual on such occasions; and the strictest examination would be unable to detect in it any fault, even if accidental error could be discovered. This memorial had no secret communication with the Government, or any department of it. He had heard, it was true, of attempts which had been made to influence some departments of the Government by communications not destined to see the light, or to reach the public ear. He would not say, that by such communications the President had been deceived, but he would say, that, if he listened to them, there was great danger of his being deceived; and he hoped he would look with great caution at any paper which came to him without his possessing a full knowledge of those who framed it.

An honorable Senator from Tennessee, early in the session, expressed an opinion, with regard to these representations to Congress, equally sound and liberal. He said he looked with distrust on any proceedings which had been got up by those who had any interest in the offices of the Government. No such interest influenced those whose memorial he (Mr. Webster) now presented: they had no party feelings which would induce them to uphold the evils produced by the measures of those who administered the Government; and they had no motives to make them causeless fault-

finders with the Chief Magistrate. He (the Chief Magistrate) has been recently with them, and they had received him with hospitality and cordiality. They had not all of them, though many had, preferred him for the distinguished station to which he had been elevated; but all saw that a majority so large as to command respect, had placed him at the head of the government, and they cheerfully acquiesced. They wished nothing else but that he should complete the second term of his presidency, with as much honor as had distinguished any of his illustrious predecessors. They were not eager complainants against the measures of the Administration; they were not swift witnesses in the cause in which they were engaged; they had not rushed forward to make known their sense of their own grievances at an early hour; they had not raised the cry of distress, whether distress existed or not; they came to speak their sentiments with moderation and firmness; they came to speak of their sufferings, and to describe a state of things they knew to exist.

This paper has been brought here by a committee of gentlemen, who, as they were his neighbors and friends, he could hardly speak of them with delicacy; and especially as some of them were as well known to Congress as to himself, and needed no recommendation from him. They were gentlemen of different relations in life, social and political. They came here to testify to what they knew; to present a state of things, which they believed the majority of Congress could not realize, and which they believed they could not, without actual and personal participation, understand. Their mission was to Congress—they had no order to go elsewhere for relief—had no message for any other department of the Government; and, believing that the evils of which they complain admitted only of legislative remedy, they came to the Legislature. Believing the law to have been violated, they came to Congress; believing that distress exists to a calamitous extent, and believing that no other power on earth can relieve it, their commission is to the Senate and House of Representatives of the United States exclusively. Their protest was on such a subject, that no consideration on earth could have induced them to sign such a paper, had it not been for that alarming, shocking state of things, so deeply affecting the public interests. Had not all incredulity on the subject become satisfied? Had not the whole of the population, from Maine to New Orleans, been satisfied? Had not all their doubts been silenced? If there be on the vast surface of this happy country, on the sides of its fertile hills, and in the soil of its rich valleys—if there be any spot so favored, that distress has not reached it—let the inhabitants of that spot rejoice; but let them rejoice with fear and with trembling; for so sure as the light of the sun—if he might compare what was beneficent in action

with that which was deleterious—so sure as the rays of the sun would, in due time, penetrate the deepest shades of the forest—so sure was it that the distress which now affected the industry and prosperity of a great part of the country, must act every where and be felt every where. In the opinion of these memorialists, the act of the Secretary of the Treasury in removing the public deposits from the Bank of the United States, plainly violated the chartered rights of that corporation. And was it not so? The act was unrepealed. The benefit that was intended to be conferred on the Bank for the services it was to render the Government, was not at present enjoyed by it. It had been deprived, then, of one part, and that the principal part, of the consideration which formed the ground of the contract which had been entered into with the Government. How had it been deprived? The courts were open—had it been summoned into them? The law was in operation—had it been made to act on the Bank as a delinquent corporation? No. No one arraigned it before a tribunal. Nobody brought it to trial for a violation of law. It existed, had its functions, as a corporation; but it was deprived of one of the principal advantages secured to it by its charter, and deprived for such reasons as were before the Senate and before the country.

The memorialists were not unaware, that, if rights were attacked, attempts would be made to render those whose rights were violated, odious. Power always sought such subjects upon which to try its experiments. The individuals to whom he had reference, protested against the Executive denunciation of the Bank. They protested against the Executive Chief Magistrate raising, waging, and carrying on war against that corporation. They thought they saw the cause that had produced their present distress in the relations that had existed between the Government and the Bank. Might not we distinctly see the origin of that controversy which had so much agitated, and still did agitate, the country, and which carried so much distress to every family? Was it not assumed from the beginning, and did it not still assume the character of a warfare between the President of the United States and the government of the Bank of the United States? It had not only been said in the common vehicles of party exultation and commendation, but it had been said within the walls of Congress, that in triumphing over that institution—in conquering it—in bringing it to the feet of the President—he would earn for himself a more flourishing garland, a more glorious victory, than he won by the battle of New Orleans. The sentiment in which that mode of commendation sprung was easy to be seen. He feared there was a love of conquest—a thirst for victorious struggles—a delight in triumphing, which had brought on the conflict between the Administration and the Bank, while the interests of the people were crushed between active and defensive operations.

The memorialists thought that such a controversy was out of place between the President and the Bank—that the origin of his action should be far above it—that neither the Bank nor any other corporation should entitle itself to any share of his personal hostility. They therefore protested against the continuance of that war between the Executive on the one hand and the Bank on the other, as it was destructive to them, injurious to the whole country, and was not a little discreditable to its character in the eyes of the world. They protested against the act of the Executive, in regard to the public treasure, as tending to bring about that state of things which the gentleman from Kentucky had so often presented to the Senate—the union of the purse and the sword. They recognized the Chief Magistrate as the commander-in-chief of the army and navy of the United States; they recognized in Congress the power and duty to guard the national resources; and they thought that the withdrawing of the public revenue, from a place fixed by law, settled by the charter of the Bank, for reasons connected in no way with the safe-keeping of the moneys, but on account of opinion's sake, was an unauthorized act. After reasoning, and after inquiry upon the subject, the moneys were acknowledged to be safe. Congress having recently acted on the subject, and having seen no reason for the change, they were of opinion, that the reasons given for the removal of the public treasure, were altogether indefensible.

They thought that the effect of the measure was to augment the rapidity of certain tendencies which they believed had attended the Government for some years past; and that was the tendency to increase power and influence in the Executive hands. They were of opinion, that the subtraction of the public revenue from a custody where it was under the eye of Congress, to a custody where it was only under the eye of the Secretary of the Treasury, was one great proof of the existence of the tendency to increase Executive power. Were they not right? Where were the public treasures of the United States? No man in that Senate knew; no man in the other House knew. The last time that the Senate had heard of them, they were deposited in certain banks not created or fixed by the will of Congress. They might be changed, for aught the Senate knew, within the last half hour, to some other place which it knew not. What was (said Mr. W.) the condition of the treasure six months ago? Was it situated as it is now? Did not every member know where the money was then? —and had not Congress an account of it, and could see that it was all there? Had Congress any such right now? Had that House, or the other, the power to go to the Bank of the Metropolis, or to the Manhattan Bank, in order to see that the money deposited in those places was safe? The Executive had now

the preservation of the public treasure, and Congress had no control over it.

It was a fact not to be denied, that every dollar of the public money—ordinarily eight to ten millions—between the moment of its receipt at the custom-house and the land-offices—to the moment of its appropriation under the authority of law, was under the entire, exclusive government of the Secretary of the Treasury—Congress knew not where—Congress declared not how.

The memorialists thought that this withdrawing of the public money from the inspection of Congress, from the guardianship of Congress, and placing it where it was subject to the guardianship and control of the officers of the Executive Government, was an encroachment upon the just rights of both houses of Congress. They protested against that violation of the spirit of the Constitution. They professed themselves to be in favor of a national bank; but that was a matter which they would leave most cheerfully to the wisdom of Congress. They did not insist upon a national bank; that might be a measure of expediency or inexpediency; but they did insist that the law should be upheld, that the power of Congress should continue to be exercised in regard to the disposal of the public revenue, and that the public treasure should be under the authority of those who had a right to the control of it, according to law. They declared that, in the present state of the country, looking to the effect of those measures, and the extent of the evil, they saw no remedy but in Congress; they saw no remedy till Congress should take up the subject, and determine to act by its authority, and establish such measures of relief as its wisdom should dictate.

He entirely agreed with them—he agreed with them altogether, that relief must come from Congress, or through Congress. But he wished to say that relief, though it come through the instrumentality of Congress, must have a higher origin. It could not come from the Executive Department in the first place: the case was past the surgery of all such practitioners. No state doctors, beginning where they might, or ending where they might, had power over the present affliction of the community. Not one of them could pluck up this deep-rooted sorrow. It was a case in which the patient must minister to himself. The people must take the remedy into their own hands: they must act, indeed, on the case through Congress, but they must act by their own will, and their own power.

The spirit, and the only spirit, that could move over the face of these waters, with power to reduce chaos to order; the only spirit that could cause that elemental strife to subside, and the sun again to appear in the east,—was the intelligent, manly, free spirit of the American people—summoned by the state of the country,

and by the state of their own interests, to come and put a check to such usurpations of power, and to apply that remedy which they, and they alone, could apply.

On Friday, March 28th, on presenting a memorial from citizens of Albany, Mr. Webster said—

Mr. President: I have the honor to present to the Senate a memorial from the city of Albany.

New York, Philadelphia, Baltimore, and Boston, have already laid before Congress the opinions entertained in those cities by men in all classes of society, and of all occupations and conditions in life, respecting the conduct of the Administration in removing the public deposits. To these Albany now joins her voice—a voice not less clear, not less strong, not less unanimous, than that of her sister cities.

It is well known to you, Sir, and to gentlemen on the floor of the Senate, that Albany, for its size, is an extremely commercial city. Connected with the sea by one of the noblest rivers on earth, it is placed, also, at the point at or near which many hundred miles of inland navigation, from the West and from the North, accumulate the products of a vast and fertile interior, and deliver them, for further transport, into receptacles proper to be borne on tide waters, or to be impelled by steam. In return for these riches of inland industry, thus abundantly poured forth to the sea, Albany receives, of course, large amounts of foreign merchandise, to be forwarded inward, and to be distributed for consumption in the western district of the State, along the shores of the lakes, and even to the banks of the Mississippi itself. It is necessarily, therefore, a place of vast exchanges of property; in other words, a place of great trade.

Albany, I believe, Sir, has a population of twenty-eight or thirty thousand people. It has given, I learn, on interesting occasions, nearly, but not quite, thirty-eight hundred votes. The paper, Sir, whose folds I am now unrolling, and which I have risen to present to the Chair, bears twenty-eight hundred names, all believed to be qualified electors. Great pains have been taken to be accurate in this particular; and if there be a single name to this paper not belonging to a qualified voter, it is not only here by mistake, but here after careful scrutiny has been had, for the purpose of avoiding such mistakes.

Every man, Sir, whose name is here, is believed to have a right to say, "I am an American citizen; I possess the elective franchise; I hold the right of suffrage; I possess and I exercise an

individual share in the sovereign power of the State; I am one of those principals, whose agent Government is; and I expect from Government a proper regard to my interests."

It will thus be seen, Sir, that this paper expresses the sentiments of three fourths of as many citizens of Albany as have ever been collected, on any occasion, at the polls of the city. What these sentiments are, the Senate will be at no loss to understand, when the paper shall be read. Its signers possess the faculty of making themselves fully understood.

This memorial, Sir, is brought hither for the purpose of being laid before Congress, by a committee of eighteen persons. Some of these gentlemen are well known within the walls of the capitol, and none of them altogether unknown to members of this or the other House. They come, Sir, to vouch for the general respectability of the signers to the memorial. They come to answer for them, as persons capable of perceiving, not only the general fact, that recent measures of Government have deranged the business of society, but of seeing also precisely how those measures have operated on their own business, their own employments, and their own prosperity.

Unpromising, Sir, as the task is—ungrateful, nay, almost hopeless as it is—this committee has not declined the wish of their fellow-citizens, that they would bring this solemn appeal to the notice of the two Houses of Congress. They have come to vouch for the general respectability of the signers of the memorial; for the fact that they number among them individuals of every class, occupation, employment, profession, and trade, in society. And they come to make good, Sir, the declarations of the memorial as to the state of things actually existing at Albany.

Albany, Sir, has been flourishing and prosperous, and seemed rapidly rising to greater and greater heights of commercial importance. There are circumstances which would appear to have favored Albany, and to have enabled her to stand the shock better than her neighbors. In addition to her capital, it has been understood that she was benefited in her money operations, to a considerable extent, by the use or the custody of State funds.

But the Senate will not be surprised to learn, notwithstanding all her advantages, that she has not escaped the general disaster. Whatever else is to be said against the Secretary's measures, they cannot be charged with being partial in their operation. They have the merit of impartiality, inasmuch as they produce universal distress.

Sir, our condition is peculiar. One hardly knows how to describe it. In the midst of all the bounties of Providence, and in a time of profound peace, we are poor. Our Secretary of the Treasury, Sir, is not Midas. His touch does not turn every thing

to gold. It seems rather to turn every thing into stone. It stops the functions, and the action, of organized social life, and congeals the whole body politic. It produces a kind of instantaneous petrifaction. We see still the form of our once active social system, but it is without life; we can trace the veins along its cold surface, but they are bloodless; we see the muscles, but they are motionless; the external form is yet fair and goodly, but there is a cessation of the principle of life within.

Sir, if one could look at the state of the country, at this moment, who had never heard what that "EXPERIMENT" is, which the Secretary is trying, he would naturally suppose him to be some necromancer, some Prospero, who had power over the principle of action, in the whole nation, and who was amusing himself, by the exercise of that power, in seeing what sort of a spectacle a great, busy, stirring community would exhibit, when his wand should bring all its members to a sudden pause, check them in a moment of great activity, and hold every one in the precise attitude in which he should be found, when the charm begins; as painters, though they cannot represent progressive action on the canvass, can yet represent action suddenly arrested; or as the interior of the mountains discloses animals caught in full life and vigor, and embedded forever in the subsiding elements of the general deluge.

Or perhaps, Sir, such a spectator might suppose that our Secretary had been imitating infantile curiosity, which thrusts its busy fingers into the opened watch, for the sake of seeing how pretty its little wheels will look when they all stand still.

But whatever a disinterested beholder might think of the manner in which the Secretary is amusing himself with "experiments" upon the nation, the people of Albany have had quite enough of experiment. They find it efficient for every thing but good. There are some things, they admit, which it has fully proved. It has proved the rashness, the delusion, and almost the insanity, of those who undertook it.

One of the most visible effects of this measure, to the people of Albany, is its check to the growth of the city. It has been fast increasing in houses and in the number of its inhabitants. But here are persons well acquainted with the facts and circumstances, who declare that the houses in building, this year, are not one twentieth the number of the last year. What is to be said in answer to that fact? The carpenter and the mason are standing still, with the rule and the trowel in their hands, to see when the Secretary shall have done with his experiment.

Albany is a great lumber market. The very large sum of two millions of dollars is usually paid annually for this article, in that city. But there is now no demand for it. The same causes op-

rating elsewhere which operate in Albany, the timber is not wanted, cannot be used, and cannot be paid for.

A great coasting trade is, also, in ordinary times, carried on from Albany. Lumber and other articles, brought down the canals, are taken down the river, and scattered all along the shore, almost to the eastern extremity of the Union. And we all know what numbers of sloops and steam-boats usually cover the surface of the Hudson, from its mouth to Troy. Last year, as I learn, from thirty to thirty-five steam tow-boats found employment between Troy and Albany and New York.

This great extent of navigation gave wages, of course, to multitudes of industrious men, whose present power of finding employment may be judged of by the fact that six or eight of these boats are at this time adequate to the calls of commerce. The whole business, it is said, has fallen off at least two hundred per cent.

It is natural to ask, Sir, how the times have affected the usefulness of the great canal, the true glory of New York, that imperishable monument of the fame of a great man—a man of conceptions large enough to embrace a high and noble purpose, and who had steadiness to pursue that purpose through evil report and good report, let the strife of temporary party do its best, and its worst, until he had accomplished it. I am told, Sir, that along the line of this great work, the quantity of flour now ready to be embarked, when the season of business commences, is not more than equal to one tenth of the amount last year. The wheat is in the country, but there is no demand for it in the city. The farmers and the millers are obliged to keep it on hand. At the commencement of the harvest last year, wheat was worth a dollar a bushel, in the western part of New York, and where, as I am now informed, it goes off heavily at 68 and 70 cents. There are cases in which the article has been carried to the usual place of sale, and carried back again for want of buyers. Indeed, an instance is mentioned of a vessel which proceeded, from one of the towns on the river, to New York, lay at the wharf a week, without being able to sell a dollar's worth of her cargo, and then returned back with it to her place of departure.

It will be at once seen, that those measures of Government, of which the memorialists complain, neutralize the benefits of the canal. They lower the price of wheat, in the western part of the State, as much as the opening of the canal raised it. The cause of all this loss is obvious. There is no market; and there is no market because there is no money; and there is no money because the measures of Government have deranged the currency, checked circulation, and shaken credit.

One of the gentlemen now here is extensively concerned in the

business of transportation on the western and northern canals. He is connected with lines which own, together, two hundred canal-boats, and usually employ fourteen or fifteen hundred men, and as many horses. An immediate loss of employment, for at least half of this capital, and of these hands, is already among the consequences of the Secretary's experiment. This shows, Sir, how the measures of Government affect wages—ay, Sir, wages—the only source of the poor man's income. Be it remembered, that the Administration is waging war for the benefit of the poor. It has attacked the Bank, laid hold of the public treasures, disregarded the votes of Congress, and thrown the whole country into a state of violent excitement, out of pure sympathy for the poor, and to protect them against the grinding power of moneyed corporations! Well, Sir, are the poor better off? Are wages higher? Is employment more easily obtained? Is labor more richly rewarded? Let the Senate judge of this matter, when I state, as I am authorized to do, that men in Albany, who, three months ago, were earning and receiving *a dollar and a quarter a day*, six days in the week, are now soliciting employment, for two days in the week only, and for *sixty-two cents* a day! And other industrious men, who were receiving a dollar a day, are now content to work for their board only.

There is in the city a large manufacture of iron castings for stoves, hollow ware, machinery, &c. Since December, it is said, this manufacture has fallen off one half, and that a hundred hands have been discharged in a day, most of them heads of families. If this be so, Sir, and the case be but a common one, a fearful account must be running up against those who have heedlessly brought such calamities on the laboring classes. There is also, I hear, a very extensive fur business done in the place; a single establishment employing no less than five hundred men and women, in the manufacture of caps, of which article no less a number than two thousand is manufactured daily, in the season of work, if any one can conceive *where they find heads for so many*. From causes like those which affect other manufactures, this, I hear, is also unfavorably affected, as regards the great number of persons to whom it gives employment.

It would be easy, Sir, to run into other details and other particulars. It would be easy to follow the effects of this derangement of the currency, not only into all classes, but until we find it affecting the concerns of all individuals, and touching the home comforts of every family. But such detail would be only repetition. All evidence and all argument must be lost on those who do not already, from what the country exhibits on all sides, see, and feel, and acknowledge, that the distress of the times is universal and unparalleled.

If, indeed, these memorialists, or other petitioners from the same State, needed confirmation in their representation of the present state of things, it might be abundantly found in the late communication from the executive of New York to the Legislature. Distress is no fiction, when the extraordinary measure of a State loan is resorted to, to sustain the common operations of business, and to give new credit, or at least new power of accommodation, to the banks. It is no trifle, certainly, when such a measure is proposed, and when it is recommended, not indeed by the executive himself, but by those who support and justify it, by reference to precedents in revolutionary times, and in the days of State bills of credit. It is no merely pretended state of alarm, when the banks find two millions of their own paper returning upon them, while they curtail their loans but 600,000 dollars. This message, Sir, admits a state of things, and argues upon a state of things, the existence of which has hitherto been loudly denied by nearly all the friends of the Administration. As to the measure proposed by the executive of New York, it becomes me, of course, to say little of it, and, indeed, to say nothing, except so far as not only New York, but the whole country, may have an interest in it. I abstain from any thing of a local nature, or belonging exclusively to State politics and State concerns. But, Mr. President, I may be permitted, I hope, to say, that it fills me with deep and unfeigned regret, for the present, and with sad, sad forebodings for the future, to see the great State of New York, instead of concurring in experienced and well-approved national measures, to promote a national object, in tent only on applying local means for local relief.

Instead of giving a lead, in the national councils, to measures of a general character, such as embrace the whole country, and such as she herself has heretofore repeatedly supported, it is painful to see her denying to this Government powers so long acknowledged by herself rightfully to belong to it, and to find her driven to measures of at least a novel and questionable nature, to uphold those interests, which she, and a majority of all the other States, have heretofore not only admitted, but strenuously contended, were confided to the just guardianship of the General Government.

I observed the other day, Sir,—and I said it neither for the sake of sounding an alarm, nor of turning a sentence,—that if this experiment of the Executive Government is suffered to go on, it will bring us to consequences nearly touching the powers and the continued action of this Government. I verily think so. As surely, Sir, as you sit in that chair, or as I stand on this floor, our tendencies, at the present moment, are strong towards disorganization, to the times of State securities, bills of credit, separate State currencies, and paper money; and, if those tendencies be not seasonably arrested, they will make shipwreck of our highest interests. The chain of

a common currency, a common standard of value, a common medium of exchange, is in imminent danger of being broken. Induced by our relinquishment of our own just rights, and the abandonment of our own proper powers and duties, individual States, under an alleged necessity, march on, but without concert or co-operation, to greater and greater control over the currency of the country.

Whatever gentlemen may say of the limitation of the power of Congress to the exclusive regulation of coin merely, I cannot but be persuaded, that that authority, which is to regulate, by paramount laws, the commerce between the States, must of course regulate that, whatever it may be, which is to perform the office of money in carrying on this commerce. Can any man maintain, that the sovereign power over commercial regulation rests in Congress, but that the power, nevertheless, of regulating the great agent of that commerce,—money,—is vested in twenty-four different States? Is our system thus disjointed and deformed? I repeat, Sir, what I have so often said, and what I believe with the utmost sincerity of conviction to be true,—that, unless by wise legislative provisions, enacted by the authority of Congress, we secure the safety of the currency, we are not only in great peril of a paper money system, but we omit to maintain that which is one of the best, the easiest, the most grateful, and the strongest ties of our national Union.

When it had become doubtful whether the present Bank of the United States would be continued, and especially after it was supposed probable that no Bank would hereafter exist, under the authority of Congress, we know what followed. Gigantic projects of State banks sprang up every where. We hear of propositions for new banks with very large capitals, in Kentucky, Tennessee, Ohio, and Louisiana. And now, Sir, we see a motion in the Legislature of New York for a new bank of ten millions, only giving way to a proposal for a State loan of four millions (it may probably be much larger); and we see, at the same time, in Pennsylvania, an application for a bank with ten millions capital, *and a power to have branches in other States.*

Mr. President, we are thus breaking off from our accustomed course of public policy on this great question of the currency. We are throwing its disposition into other hands; and we are doing this, because the Constitutional power of Congress to establish a bank is denied; denied in quarters where it has heretofore been most zealously asserted. The respectable gentlemen who represent the State of New York, in the Senate, both of them stand up now, in the forty-fifth year of the Government, and declare, as representatives of the State of New York, that Congress transcends its power when it establishes a bank! This, Sir, is not a little extraordinary, nor a little portentous.

Mr. President, I have faith, stronger than that of most others, I believe, in the duration of this Government; and I mean, if possible, to die believing; but, I confess, I sometimes feel misgivings, when I see powers of Government, of the very highest importance, held to be Constitutional or Unconstitutional, according to the prevailing party politics of the moment; powers found in the Constitution to-day at the first glance, but not to be found in it to-morrow by the most searching construction; powers, to-day, safe, necessary, and useful; to-morrow, unsafe, unnecessary, and destructive of liberty. Sir, when these respectable gentlemen were in their cradles, or in the schools, the delegation from New York, in both Houses of Congress, gave their unanimous support to the bill incorporating the first Bank of the United States. They went, to a man, with General Washington, affirming the Constitutionality of the Bank, owning its expediency, and actually creating and establishing it. This was the Constitutional opinion of New York in 1791. In her delegation, in both Houses, were gentlemen who had been active and leading members in the Convention which formed the Constitution, and had just come fresh from that great work into Congress. Having helped to frame it, having argued it before the people, they came now to administer it. With the Constitution before them, the work of their own hands—with a perfect knowledge of their own purposes, and the purposes of others, in framing it—they voted to establish a bank. We know that, of all the members of the first Congress who had been members of the Convention, very few voted against the bank, on any ground whatever. A great majority—I believe three or four to one—were in favor of it on all grounds. New York, at least, was unanimous: with her there was no doubt nor hesitation.

In 1811, the charter of this first bank expired. It was a day of great party excitement, and party did unquestionably mingle itself with the proposition for the renewal of the charter. The Constitutional question was then raised, and the bill for continuing the bank was rejected, if I remember, by the majority of a single vote in one House, and by the casting vote of the presiding officer in the other. Of those voting against the renewal, some proceeded on grounds of Constitutional objection, and others on other grounds, as was recited to us, fully and particularly, some sessions ago, by an honorable gentleman, then a member of the Senate from Maryland.

But those who, at that time, voted against continuing the first bank, found, by even a short experience, that they had taken an erroneous view of the subject. Within three years, they became themselves strenuous advocates for a bank; and, when the bills of 1814 and 1815 were before Congress, the New York members, generally speaking, were among their most zealous advocates; or,

if any of them were opposed, such opposition did not rest at all on any Constitutional objections. Bills, Sir, which I thought were unconstitutional—bills which I could not vote for—bills which I thought contained such provisions as transcended the power of Congress; such, for example, as that exempting the proposed bank from specie payment—found zealous and able supporters among the members from New York; none more able, none more zealous. And, Sir, when the present Bank itself was established, in 1816, how was it then? Was the great State of New York then found standing on Constitutional objections? Was she found opposing the Bank, as a great moneyed power, dangerous to liberty, establishing an aristocracy, and without an inch of ground to stand on, in the Constitutional power of Congress? Was judicial authority then rejected, all precedents resisted, and the acquiescence of the people and of the States set at nought and derided? Was there even the slightest doubt expressed of the power of Congress to make a bank? Far from it. Of the *twenty-seven* members from New York, then in the other House, only *seven* voted against the bill; and most of those seven are known to have so voted, not on Constitutional grounds, but on particular objections to some parts of the bill. Indeed, most or all the seven had not long before voted for a bank, with provisions somewhat different, and such as suited them better. Constitutional scruples, therefore, there were none. One of the votes of the Senate, it is possible,—though I know not the fact,—may have been given on such scruples; but it is safe to say, that at least nine tenths of the delegation of New York, in both Houses of Congress, either actively supported the establishment of the present Bank, or fully and expressly admitted the power of Congress to create it. It was created; they helped to create it; without them it could not have been created. It is the creature of New York opinions and New York power. And in all this, Sir, the Legislature acquiesced, and the people acquiesced.

Now, Sir, when this plain and incontestable history of the past is contrasted with the solemn declarations, the labored arguments, and the patriotic invocations to liberty, which we have heard uttered on this floor against all national banks, and all power of Congress to establish such banks, is it without reason that I consider such changes of opinion and conduct as things not auspicious to the future progress of our Government? Is it mere faint-heartedness, which brings on these forebodings, when I thus see that opinions, on great questions, of the power of Congress, change their hues, and run through all the colors of the prism, according to the shifting attitudes and varying positions of temporary political parties?

But, Mr. President, if I may be allowed—since it affects questions of great common concern—to speak of opinions existing in States to which I do not belong, I fully believe, notwithstanding all

appearances to the contrary, that three fourths of the people of the State of New York always have been, and now are, clearly of opinion that a bank of the United States is a Constitutional, a useful, and a necessary institution of this Government. I speak, Sir, of the spontaneous sentiments of the people, and not of such principles of action as, being recommended by organized bodies, a majority of the people may be induced to adopt as the basis of political and party associations, and act upon accordingly; and I entertain not a particle of doubt, that, if the question could be put to-day to the whole people of New York, unaffected by collateral matters, three fourths of the whole would be in favor of a bank. Nor would it be at all difficult to give reasons for this opinion, notwithstanding any inference to the contrary from occurrences here.

But, Sir, I am pursuing these reflections farther than the occasion will justify. I may not, Sir, presume to address myself to the people of the State of New York; I may not take upon myself the character of an adviser to them; but since the good citizens of Albany, through their committee, have done me the honor to make me their organ on this occasion, I hope *they* will forgive me if I say to them, that, for the evils which they suffer, *they themselves must assist to furnish the remedy.* A gentleman, on the other side of the Senate, has said, and said truly, that these great questions must be settled at the polls. To the polls, then, let them be brought. If the right of suffrage be not an idle form; if self-government be not a delusion; if there be any thing true in the idea of popular intelligence,—then political mismanagement must be corrected by political elections. I have said it so often, that it must fatigue the ear to hear it again, that redress *can come only from the people themselves.* I beseech the good citizens of Albany to lay this truth to heart.

If they are in earnest—if they really feel the evils of misrule—let them touch the right spring to restore proper action to the machinery of Government; *let them take hold of the right lever.* They complain of violation of law: let them seek to obtain the passage of other laws which shall redress such violation. They complain of Executive encroachment: as far as depends on them, let there be a Legislature which shall allow no such encroachment. Some of them, with other citizens of the State, have lately acted on the principles of a motto, taken from the words of a great and good man, now removed from this scene of things. I would beseech those who have adopted that sentiment for one occasion to apply it to another of still broader interest. It is a sentiment fit for any crisis, and especially suited to the present. It is a sentiment becoming republicans. It is a sentiment fundamental to all free governments. I cherish it, not only as it is expressed in the words of a valued friend not now among the living, but for its plain truth,

and its mighty importance. I beseech all who value the blessings of free government, and of civil liberty, to embrace it, and act upon it. I pray them to give it scope and energy, such as the present exigency of the country requires. Let it have power to overcome minor differences; let its conciliating influence unite the heart of man to man; let it melt all smaller objects into one great purpose of honest and resolute patriotism; and let all, who mean to die as they live, citizens of a free country, stand together for the SUPREMACY OF THE LAWS.

ON Tuesday, April 25th, Mr. WEBSTER presented a memorial from three thousand citizens of Ontario county, New York, against the removal of the deposits, with the following remarks:—

THESE memorialists (said Mr. W.) are farmers, mechanics, merchants, and other citizens. They represent that they inhabit a portion of Western New York, essentially agricultural, and second to none in fertility of soil, and other natural advantages. This will be readily admitted by all acquainted with the county. It is in the beautiful Lake country, is large, constituting a congressional district by itself, and is doubtless in the very first class of agricultural counties. Its great products are wheat and cattle, and its principal manufacture that of flour; although there are, in the county, manufactories both of wool and cotton. Ontario, in its leading character, is a county of intelligent farmers. It belongs to that interest which is at once the most general in the United States, and is also the basis of other pursuits. Its rich lands, and other local advantages, have invited into it, as the memorialists state, considerable capital, and stimulated stroagly the industry of the people. The growth of the county is good proof of this. This growth resembles the vigor with which population has spread forth, and penetrated the wildernesses, in regions beyond the Alleghany. I am old enough to remember when he who had seen the Seneca Lake, had performed a journey from the Atlantic coast fit to be spoken of; and I see it stated, indeed, in some interesting recent account of the settlement of this part of New York, that, when the county of Ontario was established, it contained only a thousand inhabitants, though it extended from the Seneca Lake to Lake Erie, carrying the whole breadth of the State between Canada and Pennsylvania—an extent of country now embracing thirteen or fourteen counties, with a population of near four hundred thousand. A country so rapidly growing, with so much necessity of sale, purchase, and exchange, of course requires credit, and confidence,

and a stable currency, to conduct its business beneficially. The memorialists declare that the effect of recent measures of Government has been most disastrous on all their great interests. The farmer, the merchant, the mechanic—all feel alike the pressure of the times. Produce has fallen in price from twenty-five to thirty-three per cent. since the interference of the Executive with the public revenue; and land, land itself, the great capital of the county, the form in which the vast proportion of its property consists, has fallen, within the same time, to the same extent. I receive this information from the best sources, and to which I give entire credit. Here, then, is a reduction of the whole property of the people, twenty-five or thirty-three per cent.—a striking off, at a blow, one quarter or one third of the whole value of what they possess! Sir, is this tolerable? All this, too, done under pretence of an *experiment*, but really and truly out of hostility to a banking corporation; out of hostility to an institution which has existed with great usefulness to the country, which is now approaching a time when it might be modified, altered, and accommodated to any new state of things, or so as to accord with the lights of past experience, and be continued, with every prospect of advantage to the country. How can conscientious men feel themselves justified in pushing, with such ruinous effects on the people, a quarrel of this kind to this extent? How do they find within their own bosoms a monitor to tell them that all this is right? If the Bank was not to be renewed, why not let it quietly expire? and why not leave the public moneys in it till it should expire? A measure so causeless, so uncalled-for, so destitute of all reasonable object, and all just purpose, and so disastrous in its effects on the whole body of the people, is, so far as I know, no where else to be heard of. This changing the custody of the public money, without authority of Congress, is, as a measure of policy, wholly without justification, and, as a blow on the prosperity of the country, wholly without example. The people ought not to submit to it. Their respect, their attachment for any individual, however strong that respect and attachment may be, ought not to make them willing to submit to such an extension of Executive power, and to the consequences which flow from it. And I am sure they will not submit. The country is effectually roused. The people feel a spirit stirring within them, which they know is the spirit which has come down to them with the blood which fills their veins. It is the spirit of their fathers, who did not wait till unjust power had crushed them, but who saw its approach in the lowering storm, snuffed it in the tainted gale, and met it, and resisted it, and repelled it. It is the most alarming circumstance in our whole condition, that, in order to justify the removal of the deposits, principles are advanced by the Executive which threaten a change in the substantial char-

acter of our Government. The argument, which is to justify the Executive in this instance, seems to me to leave little or no power to Congress over the public treasure. We thus see a constant advance in the claims of power. Those who defended the letter read to the cabinet, probably never expected to be called on to support such reasons as were afterwards given by the Secretary; and those who made up their minds to stand by the Secretary's Report, could not have foreseen, that, ere long, they must prepare themselves for the doctrine of the Protest. And what is next to be put forth, time only can show.

Sir, a month or two ago, an honorable member of New York, spoke with pleasure of the unanimity of feeling which prevailed in New York, and of the quieting, in some measure, of what he thought an unhappy controversy, which had existed, heretofore, in the western parts of that State particularly. I think, too, Sir, there are signs of union, and much stronger signs than there were when the gentleman alluded to the subject. Sir, the letter addressed to the honorable member from Kentucky and myself, committing this memorial to our care, is signed by names many of them not unknown here. They are, Nathaniel W. Howell, John C. Spencer, Mark H. Sibley, James D. Bemis, Z. Barton Stout, John Dixson, Phindres Prouty, H. R. Schermerhorn, Robert Carey Nicholas, Abraham C. Post, Samuel Rawson, Stephen Bates, and Moses Fairchild.

Those who know these gentlemen will recognize among them persons whose political opinions have not been the same on all subjects, nor their political objects always identical. Yet they are united. They are united, as in a common cause, and seeking to remove a common evil. They come with one voice to Congress; they speak with one voice to the people; and I trust they will act with one heart and one mind in the present exigency of public affairs. It is to this union, to these united counsels, and united efforts, to this sense of common danger, and this common sacrifice of minor differences to high patriotic duties, that I look, and look confidently, for the salvation of the country. Every day accumulates new proofs of this growing harmony of public sentiment. Far and near, there is a rallying for the Constitution and the laws. Three days ago, we heard of the clamorous and factious shouts of the citizens of Baltimore. Another peal now reaches us from the multitudes assembled in those same streets; and in this peal mingle many new voices, of powerful tone. Sir, the American people are so well schooled in the great doctrines of free government, that they are competent to teach first principles, even to their rulers, if unhappily such teaching should become necessary. They will teach them that public complaint, for maladministration of government, is not clamor; that indignation for unnecessary and

severe national suffering, is not treason, either legal or moral; that to resist the encroachments of power, is not to cabal against Government; and that the people themselves are not a faction.

On Tuesday, May 20th, Mr. Webster presented to the Senate a memorial from citizens of Columbia, Lancaster county, Pennsylvania, remonstrating against the measures of the Executive, in relation to the Bank of the United States, and the Executive Protest against the proceedings of the Senate.

Mr. Webster said he was more fortunate than the gentleman near him, the member from Pennsylvania, as he was about to present to the Senate a paper, in the sentiments of which he heartily concurred. It was a paper which recorded the proceedings of a Whig meeting in the town of Columbia, Lancaster county, Pennsylvania. Columbia was a handsome town, as most of the Senate knew, on the Susquehannah, containing two or three thousand inhabitants, and, by its position, much connected with the inland trade, in lumber, and articles of agricultural product, as in the great line of communication between Pittsburg and Philadelphia by those noble canals and rail-roads, by which the enterprise of Pennsylvania has connected those two important points. The memorialists partake in the evil of the times. They have not escaped that impartial and undistinguishing scourge—the experiment. They feel its heavy hand upon them, in the stagnation of trade, the want of employment, the disappearance of credit, and the flight of commercial confidence. Sentiments like theirs, strongly and ably expressed, have just been heard, in the memorial of the antimasons of Alleghany county. Like the antimasons of Alleghany county, these Lancaster Whigs are satisfied with their experience of the experiment; and, like them, they protest against the Protest.

The Alleghany memorialists declare their opinion, that the removal of the deposits was made without just cause, and that therefore it violates the word of honor of this Government. And among the resolutions adopted by the Whig meeting at Columbia, I find the following:—

"*Resolved*, That the Bank of the United States has acted the part of an useful and faithful public servant; that the war now being waged against it is foolish, wicked, unjust, and calculated to injure the best interests of the country; and that the charter of that institution ought to be renewed, with such restrictions and modifications as the public good may require and the judgment of Congress ordain."

I believe this resolution is entirely true. The present state of

things, in my judgment, exhibits the laws transgressed, the chartered rights of a corporate institution violated, the word of honor of the Government broken. I think the withholding the deposits from the Bank is a daily wrong, a continued infringement of its legal rights, inasmuch as it stipulated for the custody of these deposits, paid its money, under that stipulation, and had done no act whatever contrary to its contract. I believe the suffering of the community is brought upon it by an act not only unwise, but unjust; not only an act of folly, as it affects ourselves, but an act of positive wrong to others.

Mr. President, this is perhaps as fit an occasion as may occur, to say something upon the motion which I made to the Senate, the latter part of March, for leave to bring in a bill to continue, for six years, the charter of the Bank of the United States, with certain modifications. At that time, Sir, the country had been trying this notable experiment, or rather its own patience and forbearance had been on trial under its operation, almost six months. All men of the least pretension to sense and candor, had become satisfied that very great distress existed in the country. The time for doubt and denial had gone by. The sneers which had previously been manifested in the Senate, whenever the pressure on the country was alluded to, had ceased. However men might dispute about the cause of the distress, the fact of its existence was too plain to be gainsaid. The merchants, the farmers, the manufacturers, and the mechanics, had loaded our tables with their remonstrances and memorials, and filled our halls with their committees. No measure of relief, meantime, was suggested by gentlemen connected with the Administration. Their only remedy was, as it now is, endurance. If we spoke of distress, they bade us hold our tongues, and bear it. The sum and substance of their political philosophy was, "We must stand by the President: we must hold on upon the experiment."

In this state of things, Sir, I felt it my duty to prepare, for the consideration of Congress and the country, some measure of immediate and efficient relief. It might be rejected; but then an offer would have been made. The devotees to the experiment might cling to it, extol its wisdom, and predict its success; but the country would have an option. The condition of the country was such as was not to be trifled with; and therefore I sought for a measure that, if adopted, could not fail to be effectual. Against rash experiment, I prepared well-tried experience; in opposition to rash and speculative theory, I offered what forty years had proved to be safe, practical, and beneficial. Allow me to advert to the main provisions of the bill which I recommended, as I desire its character should be kept, to the eye of the public, in a clear and distinct light.

What the bill proposed was,

A short continuance of the present charter, *with an addition of its exclusive right*; so that, while this Bank still continued, Congress, at its leisure, might provide another, if it chose, and bring it into existence, to take the place of this, at the end of six years;

A restoration of the deposits;

And a provision for enlarging the specie circulation, so as to increase, in fact, to a great extent, the hard money of the country, and to discountenance the circulation of small notes.

This is the substance of the measure.

Now, Sir, if this measure shall be adopted, the country will be relieved;

The Bank will have time to collect its debts, and wind up its concerns;

Congress will be at liberty, also, to adopt any system for the future, which its wisdom shall approve: it may recharter this Bank; it may create a new bank; it may decide it will have no bank. Meantime, and until its final decision shall be made, business will resume its wonted course, employment will revive, labor will be again in demand, commerce will open its sails, and revenue begin again to flow into the treasury. If there be one intelligent individual who denies that all these consequences would immediately follow the passage of this bill, that individual I have not met with. What is said is, not that this measure would not produce these beneficial effects, but that we can get along without it; that the experiment will yet succeed; and that, at any rate, the President and the party will put down the Bank. If, Sir, this bill had passed within a fortnight from the time of its introduction, the country, at this hour, would have begun to resume its accustomed prosperity, activity, and cheerfulness: we should have despatched the business of the country, and been ready to go home by the first day of June, to receive the cordial welcome of our constituents.

If we could pass it now, although the case has been growing constantly worse, yet, even now, it would in ten days give an entire change to the face of things—in a month, put the cotton-mills again in motion, bring up the prices of lumber, wheat, and other products of the farm, reanimate internal trade, put life into all the manufactories, and the mechanic pursuits, in which life is now suspended, gladden labor with the certainty of fair wages, restore confidence, bring back credit, and make the country, once more, what it was twelve months ago. All this good is in our reach, if we will abandon theories, when they are proved and demonstrated to be fallacious; give up follies, now that they stand as exposed and acknowledged follies; and restore the reign of the law, of justice, of good sense, and of experience.

When I last addressed the Senate on this subject, the latter part

of March, I manifested my intention to call it up again the 21st of April. The opinion of the Senate, both on the causes of the public distress, and on the proper remedy, were very well known. A majority, it was not doubted, disapproved the whole Executive proceeding, in removing the public moneys from the Bank, and would regard their return as the first step in reëstablishing a proper state of things. And a continuance of the present Bank, with modifications, was supposed also to be the measure which a majority was most likely to concur in, as the remedy best suited to the occasion. The House of Representatives had done nothing to commit itself, one way or the other. Whatever might be conjectured of its course, it had come to no decision.

But before the 21st of April came, that honorable body had expressed its opinion. It had decided, by a very large majority, and in the most general terms, that the Bank should not be rechartered. While this purpose remains, it is obvious that any proceeding of the Senate on the subject must be nugatory. The Senate cannot recharter the Bank. The Senate, of itself, has no power to pass measures for the public relief. It can, indeed, check the measures of other branches: it can resist what it deems to be wrong, and it may show itself ready to concur in wise and proper measures of relief; but it can do no more. It would seem, therefore, to be hardly worth while to occupy the attention of the Senate with propositions for relief, to which the other House has, beforehand, manifested its determined opposition. Until there is some intimation of a change of opinion in that House, it is useless to press the measure which I proposed. For the present, therefore, I shall suffer the subject to remain where it is. When I shall next call it up, will, of course, depend on circumstances. Of the measure itself I retain the same opinion as I expressed on its introduction. It is a prompt measure; it is an efficient measure; it is a conciliatory measure; and it is the only measure which promises relief to the country. These are my opinions; and those who oppose this measure, and have nothing to propose but a confirmation of the present state of things, act on their own responsibility.

Sir, the question is before the country. Shall the Bank be rechartered, for a short period, until it can collect its debts, and wind up its concerns, without distressing the people? or shall it be left to collect its debts, in the short period of its charter which yet remains, whatever may be the consequences to the public?

Mr. President, if Congress see fit to embrace the latter branch of the alternative; if it will not recharter the Bank, even for a day, or under any modification; if it will make no new bank; if it will leave the country, in its present condition, to struggle with its difficulties and its distresses as it can;—it will be recollected, at

least, that all this is not the result of necessity. It will be recollected that a different policy was proposed; that a fair and conciliatory measure was offered, was earnestly pressed on the attention of Congress, and was rejected.

Let gentlemen, then, Sir, take the consequences upon themselves. If the summer shall prove to be one of great embarrassment; if business shall be suspended; if trade shall stagnate; if employment for labor shall not be found; if the revenue shall fall off one half;—let it be remembered, that these consequences, one and all, might have been, this day, easily prevented; that plain, easy and adequate means of prevention were proposed, but that gentlemen chose to adhere to their theories, their experiments, and their predetermined course of policy, against all remonstrances, as well within the walls of Congress as without.

Mr. President, while, like others, I am engaged here every morning in presenting to the Senate the proceedings of public meetings and the memorials of individuals, supplicating Congress to restore the public prosperity, and to reëstablish the authority of the laws, I think it due to those who thus do me the honor to make me the organ of their sentiments and their wishes, and indeed to the whole country, that I should express my own opinions upon the present state of things, and upon the prospects before us.

In the first place, then, Sir, I wish to express my belief that nearly all practical men and men of business in the country, friends or foes of the Administration, have become satisfied that the "experiment" is a complete failure. Whatever some may, at one time, have believed, and whatever others have hoped, eight months' experience has settled the question. Yes, Sir, I believe that friends as well as foes now see that the attempt to sustain the currency, and maintain commercial credit, by the aid of State banks, has hopelessly failed. With all the aid of Government, with all that party zeal could do for them, these banks have not been able to relieve the community; they have not been able to restore confidence. Confidence is a thing not to be produced by compulsion. Men cannot be forced into trust. Good credit, within local limits, these banks, or some of them, possessed; but there it naturally stopped, and cannot be forced farther.

As far as I understand, at least in this part of the country, the usual occurrences are these: If a man has the notes of State banks to any amount, he goes to the banks, and gets specie for them. Having obtained his specie, he very often goes to the Bank of the United States, and exchanges it for bills. The returns made to Congress from the deposit banks, and all our information, official and unofficial, clearly show that they are not competent to relieve the country. The experiment, I repeat, Sir, has already failed. Men feel that it has failed. The friends of the

Administration feel that it has failed. I speak confidently, and am willing it should be remembered that I have so spoken; and I say that, at this very hour, in my opinion, the conviction is general that the measures adopted by Government have not produced, and cannot produce, the expected beneficial effect.

As to what is before us, Sir, my opinion is, we are to look forward to a summer and autumn of very great difficulty. There may be occasional and temporary relaxations of suffering, but there can be no permanent relief. Men of capital will be alarmed; active men of business will be timid; those who have any thing will rather seek to secure it, than to hazard it in the attempt to make more. Employment will be scarce, wages low, and, above all, or rather, perhaps, as the cause of all, a want of confidence, an uncertainty about the future, a distrust in the currency, and a distrust in Government, will continue to paralyze the whole community.

If we break up here, having done nothing, we shall go home to meet nothing but complaints and trouble. Can any of these advocates of "experiments" tell me how the condition of the country is to be changed for the better, before the next meeting of Congress? How is business to revive? How is occupation for the laboring classes to be obtained? How is commerce to be extended? How is internal trade, especially, to regain its facilities and advantages? How are exchanges to be reëstablished? And what is to become of the revenue? Will gentlemen longer sleep over this last subject? Do they now not see, that the Secretary's estimates cannot be realized? Sir, the honorable member from Kentucky has called for an account of the receipts at the treasury for the year, thus far. When those accounts come, they will open gentlemen's eyes; they will show sad disappointment. I cannot speak with precision, as to the extent of defalcation, but I do not speak altogether at random, when I give my opinion on this subject. From the best lights I can obtain, there will be a deficiency in the receipts of the customs of at least one third the whole expected amount; perhaps nearer to a moiety than to a third. Such is the direct effect of the *experiment* upon the finances of the country. Having, Sir, expressed these opinions, there are others, also, which I think it right to state.

With all respect, Sir, to both Houses of Congress, and notwithstanding all that we hear, in one or the other, against the power to create a bank, I am fully of opinion, nevertheless, that two thirds of each House are convinced of these two propositions: First, that a national bank is Constitutional; second, that a national bank, in the present state of things, is indispensable. This may appear inconsistent with what has taken place, but I fully believe it is all true. This paradox, if it appear to be one, is easily explained by considering the circumstances which may,

and which do, control men's opinions. One question gets mixed with another; opinions give way to notions of present expediency; and the consequences of appearing to give way and abandon a favorite course of policy, are more feared than all other consequences. Sir, if the Executive would but signify his assent to such a proceeding, we should recharter the Bank of the United States, at least for a short time, restore the deposits, and go home to the people in three weeks.

We hear, sometimes, intimations thrown out, that the Administration may itself yet propose a bank; some sort of a bank; a bank not on the usual principles, but on some new principles. "New principles," it is frequently said, are to be applied to the case. I am not aware, Sir, from my own reading or observation, that any *new principles* in banking have been discovered, at home or abroad, for the last quarter or half a century, unless it be that certain notions which have been suggested among us, some time since, and recently, but never adopted, may be called new principles. I will advert to some of them.

One is, that we may create a bank, with a large capital, and establish it in this district; not for the convenience of the people here, but for the benefit of the whole United States. Now, Sir, he must have singular ideas of Constitutional law, who denies that Congress can make a bank at Philadelphia, with branches in other States, and yet contends that it may establish a bank here, which may send its branches into all the States. And as to a bank with a large capital here, where there is so little commerce, with no branches in the large cities, where commerce does exist, the notion is too preposterous to need refutation. This "new principle," then, Sir, be assured, will not be carried into operation.

There is another "new principle;" and that is, to establish a bank on the funds in the treasury. It is hardly necessary to say, that the time for this, if there ever was a time favorable to so crude and so dangerous a project, has quite gone by.

We have had, too, Sir, at different periods in our history, suggestions favorable to the exemption of banks from liability to pay their notes in specie; in other words, favorable to a sheer, confessed paper money system. These suggestions, it may be, have become part of the "new principles," which it is intended shortly to exemplify. The country, I trust, will not run into any such folly.

Again; I have heard it said, that, although there may be a bank hereafter, yet it must be a bank in which the Government, that is, the Executive, shall have direct participation and control. I need hardly say, that, for one, I shall not consent to any such project for extending Executive influence. I shall not agree to make a very bad bank, for the sake of making a very dangerous govern-

ment. In short, Sir, I reject and repudiate all these new principles. I shall set my face against all banks but a specie-paying bank, a hard-money bank, a well-regulated and well-constituted bank, established on principles safe to the Government and safe to the people. If we cannot have such a bank, the next best thing will be to have none. Gentlemen may set their hearts at rest, Sir, about all these new projects. The country is too wise, it has already had too much taste of *experiments*, to countenance any one of them. If there be not a sound bank, a safe bank, a bank independent of Executive control, there will, for the present at least, be no bank at all.

I have only a few words more to say, Sir. We are already far advanced in the session. The heats of summer are approaching; and what is to be done? Is the Administration prepared to see the session break up, and members go home, leaving these things as they are? Is such the intention of the Executive? Is such the intention of members who support the Executive? I still remain of the opinion formerly expressed, that it is our absolute duty to adopt some measure of relief, before we leave our seats. But the responsibility is not on us. The Senate can do nothing. We are not responsible either for the present or for future difficulties.

We have not brought about this state of things; we have not removed the deposits; we have not broken the plighted faith of Government; we have not deranged the currency; we have not shaken credit and confidence; we have not brought on failures, bankruptcies, and ruin; we have not obstructed trade; we have not checked manufactures; we have not starved labor; we have not impoverished the treasury. It is for those *who have changed the state of things*—it is for those *whose political acts have placed the country in the condition it now is in*—to take and to bear the responsibility. When we foretold this, we were derided as prophets false or prophets ignorant; complaints of distress have heretofore only produced sneers, sarcasms, and attempts, poor attempts indeed, at ridicule. But the evil has come in a shape too formidable to be disregarded. Here it is; and how do its authors intend to deal with it? Sir, I am as anxious as any member can be to go home. I stay here at great inconvenience and sacrifice; but I am willing to stay till the last hope of doing any thing useful has faded away. I will stay till the dog-days come, if it promise the benefit. If the Administration has any thing to propose, I will stay and hear it. If it meditates any measure of relief, I am willing to wait the result of its meditation. I hope, therefore, gentlemen will tell us,—I call on them to tell us,—whether the Executive has any thing further to propose. Does it desire the prolongation of the session? Has it any thing, or does

it expect to have any thing, to submit to us? The friends of the Executive have the power. They have, too, the responsibility. They reject every thing which we think useful; and they propose no change from our present condition. They can relieve the country at once, if they choose. If they will but sacrifice their own prejudices, their stiff adherence to their own opinions and purposes, on the altar of the public good, they could relieve the country in three weeks. It is for them to decide whether this sacrifice shall be made. And I now repeat, Sir,—and it is the last remark with which I shall trouble you,—that, unless some efficient measure be adopted before we separate, we have a summer and fall before us such as this country has not experienced.

In the Senate, on Tuesday, June 3d, Mr. M'Kean presented the memorial of the Pennsylvania State Convention, assembled at Harrisburg, May 27th, 1834, introducing it with appropriate remarks. The memorial having been read, Mr. Webster arose and addressed the Senate.

Mr. President: Is this, Sir, the voice of Pennsylvania? That is a question of very great interest at the present moment. The whole country has a concern in it. *Is this the voice of Pennsylvania?* If this be her voice, then we may hope that the day of relief and of safety is approaching. If this be her voice, it is a voice of health and of rescue. The work of relief will prosper, it will proceed, if her heart be in it, and her strong hand be put to it. Pennsylvania is one of those great central States, on whose determination, and on whose conduct, every thing in regard to the future condition of the country seems to hang. If this centre moves with intelligence, union, and patriotism, nothing can resist its force. For one, I believe that the sentiments expressed in this memorial, are, to a very great extent, the sentiments of Pennsylvania. I believe this is HER VOICE. The proofs, I think, are satisfactory. They come in numerous expressions of opinion, in a thousand forms, from all parts of the State itself; and they may be gathered from the workings of public opinion, in other portions of the country. In this hall, and the other, I see evidence, if I mistake not, that those who know Pennsylvania best, believe her to entertain the opinions expressed in the paper which has now been read, and believe, also, that she will soon show herself in earnest in maintaining them. She has been an ardent friend and a steady supporter of the present Chief Magistrate. Among the very first to espouse his cause, from warm gratitude for his great services, a strong conviction of his honesty and patriotism, and a confiding trust in his ability to administer the Government, she has adhered faithfully to her attach-

ment. Three times she has given him her vote for the presidency, and she has not faltered in her support, heretofore, although there have been measures, touching her vital interests, in which nearly every one of her delegation here, and a vast majority of her own Legislature, have been constrained to differ from the President. She has seen and regretted what she thought errors; but she has remembered great services and great exploits, and has gone on with her characteristic steadiness. It is not wonderful that she should be slow and reluctant in withdrawing confidence where she had bestowed it in such bountiful measure. I would not suggest, that, even now, Pennsylvania abates her personal kindness and regard for the Chief Magistrate, who has been so often the man of her choice. No doubt she would desire to see him go through his career with success and honor; but I believe, Sir, that her citizens perceive the true character, and feel the disastrous effects, of those measures which the Administration has been recently led to adopt, and that they are convinced that it is their duty to oppose those measures, by every thing which belongs to their interest, and to their character, as Pennsylvanians. In all this, it is possible I may be deceived. The sentiment of Pennsylvania may be fixed the other way. My hopes, my earnest wishes, may mislead me; but I shall not give up these hopes while it is possible to retain them, because they are intimately connected with all the expectation which I cherish for a return of the prosperity of the country.

Mr. President, the immediate difficulty in our condition is to convince the friends of the Administration here, and the President himself, that the country is either dissatisfied or distressed. The pertinacity with which men here cling to this "experiment," exceeds all former experience. They can see no proof of distress, they can hear no sounds of just complaint. All the excitement which exists in the country, they insist upon it, is produced by the *Bank*, by *panic-makers*, by *party politicians*. All the memorials come, they say, from the President's enemies. If we stand up here to present the petitions of the people, and to press them on the attention of the Senate, we are called *panic-makers!* If we speak of the multitudes who flock together, at public meetings, to memorialize Congress, we are told they are all *Bank agents*. Farmers, mechanics, laborers, traders, manufacturers, and merchants, come here, by hundreds of thousands; but we are told they are all but a few noisy *political partisans*. Sir, an end to this delusion must some time come. It cannot last forever; and, if any thing short of an overwhelming defeat at the ballot-boxes will ever convince the supporters of the present measures that the people are against them, they might be, in some degree, satisfied by the character of this Convention at Harrisburg, the circumstances attending it, and

the result of its proceedings. It was a Convention, consisting of two hundred and fifty delegates, coming from forty-four counties, out of fifty-two, which the State contains. These delegates assembled, Sir, from places some of them three hundred miles apart, at a very busy season of the year, in obedience to the will of their constituents, for the pupose of consulting on the present state of things, and uniting to pray relief from Congress. I have the honor of knowing several of these gentlemen personally, and many others by reputation. The Convention was not composed altogether of delegates from any one political party. Various parties, various descriptions of political men, united in its proceedings.

It is known, that there exists in Pennsylvania a large, active, and zealous antimasonic party; and I see, among the members of the meeting, many distinguished names belonging to that party. These gentlemen came to the Convention, not to lose their own distinct character; not to give up their own principles of association; but to signify, that, in this crisis, and on the great questions which now agitate the whole country, they think as others think, and as Americans ought to think, and that they hold fast to the Constitution and laws.

Sir, I am happy to say, that I know no party or body of citizens in the country, whose principles and opinions, on all its leading interests, are more thoroughly sound and patriotic than those of the antimasons of Pennsylvania. I know no gentlemen more worthy of trust, in every respect, than those who are placed in the public councils here by their influence and their votes. It is true, that the party has a distinct object of its own, which it keeps constantly in sight, and which it pursues with steadiness and zeal; but it is equally true, that it shows itself, always, unwavering and steadfast in its attachment to the Constitution, in its maintenance of the authority of law, in its love of liberty, and in its support of the great interests and true policy of the country.

The Whigs, Sir, were also represented in this Convention, and it will be seen, by its proceedings, that they have avowed sentiments and principles worthy of their name. Nor are these all. It appears, also, from the memorial itself, that nearly one third of the whole Convention was composed of friends and supporters of the present Executive. Seventy-five Jackson men, as they have been called, are on the roll of members. Will not this striking fact produce its effect on gentlemen here? Will it not cause them to open their eyes to the progress of opinion, and their minds to the force of truth? You will observe, Sir, that this Convention did not call itself a *Whig* Convention, a *National Republican* Convention, *nor an Antimasonic* Convention; but it called itself a "Convention of delegates from the citizens of Pennsylvania op-

posed to Executive usurpation and abuse." It adopted a name, or used a description, broad enough to comprehend all those who, however they might differ in other things, united in the objects of this meeting. Now, Sir, how is it possible, that so numerous and respectable a Convention, thus composed of gentlemen belonging to distinct parties, and to different political associations, could be brought together, and be found adopting this memorial, with entire unanimity, if there were not some strong conviction, common to all, some general and concurring sense of public distress and public danger?

Sir, they have acted wisely and patriotically; they have remembered that they have a common country, a common liberty, and, in times of danger, a common duty. They have felt, that, whatever else they may be, they are yet all Americans, all Pennsylvanians, all lovers of liberty and the Constitution. The Administration is deceived, therefore, Sir, the President himself is deceived, greatly, if he supposes this Convention to have been assembled by the agency of the Bank, by any mere party operation, or by any desire to create panic. Let us look to individuals, let us see who composed the Convention, that we may judge the better of the weight due both to its declarations and its opinions.

I perceive, Sir, that there was placed in its chair a WASHINGTON COUNTY FARMER, Joseph Lawrence—a man, Sir, well known in this capitol; a man of the simplest republican habits, and the sternest republican virtues; a man who has served his fellow-citizens in distinguished public stations with much credit, and has gone back to the cultivation of his own farm with *real* Roman simplicity. Sir, all the Banks in the world, and all the panic-makers and political partisans in the world, could not bring him over the Alleghany to Harrisburg, there to put his name to a paper containing these sentiments and these statements, unless he fully believed them all to be true.

In the preliminary arrangements of the meeting, and also in its subsequent proceedings, I observe that General Frick, of Northumberland, acted a conspicuous part. If I have been rightly informed, this gentleman has been a distinguished friend of the present Chief Magistrate, and has supported him and his measures, with ability, both in and out of the Legislature of Pennsylvania. Is it panic, is it party spleen, is it ill-will to the President, which brought this highly-respectable gentleman, and others like him, to the Convention? Certainly it is not. Nobody can believe it is. They were brought thither, and could only be brought thither, by that sense of duty which is stronger than personal preference; by that true love of country which places principles above men. Would they not stand by the President if they could? Popular

as he still is, powerful as he is, would they not go on in their support of his measures if insurmountable obstacles were not in the way?

There is another circumstance, Sir, in the character of this Convention, worthy of especial notice. Among its members were several who belong to that highly respectable portion of our fellow-citizens, the society of Friends. With one of them, a member of the committee who brings this memorial to Congress, a most worthy and respectable gentleman, I have the pleasure of some personal acquaintance. He is advancing far into age; and yet, Sir, he never attended a political meeting in his whole life, until he went, with others of his society, last week, to Harrisburg! When, Sir, were the society of Friends found to be political agitators, ambitious partisans, or panic-makers? When have they disturbed the community with false cries of public danger, or joined in any clamor against just, and wise, and Constitutional government? Sir, if there be any political fault fairly imputable to the Friends, I think it is, rather, if they will allow me to say so, that they are sometimes a little too indifferent about the exercise of their political rights; a little too ready to leave all matters respecting Government in the hands of others. Not ambitious, usually, of honor or office, but peaceable and industrious, they desire only the safety of liberty, civil and religious, the security of property, and the protection of honest labor. All they ask of Government is, that it be wisely and safely administered. They are not desirous to interfere in its administration. Yet, Sir, a crisis can move them; and they think a crisis now exists. They bow down to nothing human which raises its head higher than the Constitution, or above the laws.

Such, Sir, is the character, the composition, of this Convention. I beseech gentlemen not to deceive either themselves or others, by referring all its proceedings to party influence and bank influence. Depend on it, Sir, it had its origin, and owes its character, to a deep feeling of dissatisfaction with measures of Government, a conviction of much public distress, and an honest alarm at Executive claims of power. And depend on it, Sir, if these and other admonitions are not taken in time, if nothing be done to quiet apprehension, and to relieve the country, the sentiments of this Convention will become, and must become, more and more general among the people.

This memorial, Mr. President, declares that the cherished policy of Pennsylvania, consisting of an encouragement of her manufactures, has become impracticable and delusive; that numerous establishments are closed, and others crippled; that the loss of property has been afflicting; and that the suspension of business deprives *labor* of wages, and of bread. Is this true? Is this representation

fact, or fiction? Have two hundred and fifty gentlemen been sent to Harrisburg, by their friends and neighbors, that they may raise a false cry, put statements upon paper which are not true, and send thirty of their own number to Washington, to impose on Congress with a pretended but false story of distress?

The memorial speaks of Pittsburg. It is now within a few days of twelve months, since, for the first time, I visited that city, so interesting by its position, by its rapid growth, by the character of its inhabitants, and by the history of early occurrences in its neighborhood. It was then all animation, activity, and cheerfulness. If the smoke of numerous manufactories and workshops somewhat darkened the air and obscured the view of the charming scenery around, it gave evidence, still, that occupations were prosperous, and that *labor* was well paid, and happy in its daily toil. Of thirty thousand inhabitants, it is said two thirds of them owe their means of livelihood to manufactures; and it may be asked, with emphasis, and with alarm, unless activity be restored again to the loom and the forge, what is to become of this mass of human strength and industry, thus thrown out of employment? The memorial goes on to say, that the great staples of the State are without a market; that many of its mines are more or less abandoned; that the manufactures of iron and cotton have fallen off one third; and the products of the field sell only at reduced prices, when they sell at all. "Turn where we will," say the memorialists, "your memorialists perceive one universal sense of present or impending ruin, depressing the energies and darkening the prospects of the citizen."

Now, Sir, if these statements, put deliberately on paper by this Convention, and brought hither by its Committee, will not convince the Administration and its friends of the fact of dissatisfaction and distress among the people, all effort to produce conviction must fail. We are, indeed, I fear, attempting a hopeless task. All fact and all reasoning seem to fall powerless on the unimpressible, impenetrable surface of party opinion. Every blow, however often repeated, rebounds from it as from the face of an anvil. Men have become so committed, they have so far stepped in already, all their hopes are so entirely pledged and staked on the success of this grand "experiment," that any change of purpose appears to be out of the question.

I can only repeat, therefore, Sir, what I have so often said, that I entertain faint hopes of relief, till public opinion shall produce it, by some change of public agents. The authors of this experiment have made up their minds to share its fate, to float with it, if they can keep it above water, and to sink with it, if it must go down. They still cry out that all is well, all is safe, all is pros-

perous, all is glorious; and argument, experience, the importunity, even the supplications of the people, have no more influence than the idle wind.

Sir, I am happy to believe, as I do believe, that the citizens of the great State of Pennsylvania are awaking to a just sense of the condition of the country. Since all our fortunes are so much connected with her own; since all that she does, and all that she omits to do, may affect the happiness of every man, not only within her own limits, but in all the other States; it is natural that the whole country should regard her with interest. I doubt not, Sir, she will examine the conduct of Government, and take counsel with her own thoughts, about the security of the Constitution, and the preservation of the authority of the laws. I doubt not that she will well consider the present, and look to the future; and if she finds all well, and all safe, if she feels no evil, and perceives no danger, she will repose in her accustomed tranquillity. But if she feels that evil, and great evil, does exist, and if she sees that danger is before the country, it is not to be doubted that she will bring to the crisis her intelligence, her patriotism, and her power.

In acquiring the liberty which we enjoy, she had her full share, both of the sacrifice and the glory; and she knows that that rich possession is holden only on the condition of watchfulness and vigilance—God grants liberty only to those who love it, and are always ready to guard and defend it. In establishing our admirable Constitution, she bore a leading part, and contributed, to the councils which framed it, the wisdom of Franklin, and Morris, and Wilson. None can have a deeper stake in the preservation of this Constitution than the citizens of Pennsylvania; and I verily believe that none are more truly attached to its true principles. It is natural, therefore, that those who think that high principles, or great interests, are in danger, should look to her for succor.

If, as this memorial alleges, the manufacturing industry is depressed and suffering, if it be discouraged, crippled, and threatened with ruin, who shall save it, if Pennsylvania shall not aid in its rescue? Where will it find support, if she abandon it? We have followed her lead, in fostering manufactures, and sustaining domestic industry, believing this to be a part of her settled policy, interwoven with her system, and that her purposes in regard to it were fixed and settled. I still think so; and, therefore, I cannot readily believe that she will approve measures which undo all that has been done, or counteract its good effect.

Above all, Sir, I cannot believe that the political doctrines of the times can stand a chance for adoption in Pennsylvania. I cannot believe that men who have been educated in that school, which has been called emphatically the Democratic School, and

who hold their political opinions in common with McKean, and Snyder, and William Findlay, will have a relish for the sentiments of the Protest. When they are asked, Who ought to hold the public purse? I think they will not agree with the Protest in their answer. Nor has it ever been taught for doctrine, in the school of which they are disciples, that the Executive power is the natural guardian of liberty, and that it is not for the representatives of the people, or the representatives of the States, to question its acts, or to proclaim its encroachments. Sir, Pennsylvania is deeply interested in that in which we are all interested—THE WELFARE OF THE WHOLE; and if she be true to herself, as I trust she will be, she cannot be false to the country.

Mr. President, we are approaching to the end of a long session, and we are likely to leave off where we began. We have done nothing, and I fear shall do nothing, for the relief of the people. The Government has nothing to propose which even its own friends will support. On what does it rely? A proposition is before the other House, which has been represented as the only scheme of the Administration. It is a law for keeping the public treasures in the State banks. It was offered here, the other day, as you remember, Sir, by way of amendment to a bill, and was rejected by more than two thirds. It is put to rest here; nor is its sleep elsewhere likely to be disturbed.

The Administration will not consent that the deposits be restored; it will not consent to give the present Bank time to collect its debts and wind up its affairs without distressing the people; it will not consent to prolong its existence a single day; it will not consent to any new bank; it will not suffer the public money to depart, in any way, from Executive control. It sees employment cut off, but it does nothing to restore it; it sees confidence destroyed, but it does nothing to revive it; it sees the revenue diminished, and dwindling, but it does nothing to improve it. And yet it would appear, that the Administration is now desirous that Congress should adjourn and go home. For one, Sir, I feel that Congress has not done its duty; it has not fulfilled the objects of the session; it has done nothing to relieve the country.

The responsibility, Sir, must rest where it ought to rest; and we must prepare ourselves, as best we may, to account to the people for the disappointment of their just hopes, and the disastrous consequences of rash, unlawful, ill-advised measures of Government.

Mr. President, I hardly intended, when I rose, to occupy more than a moment of the time of the Senate. I know how many important subjects are upon the table. But this one subject—the general condition of the country—is so superior to all—it is of such

overwhelming importance, that every thing else necessarily gives way to it. It has been so through the session; it will be so next session; and it will continue to be so, till the Constitution shall be vindicated, the violated law redressed, the public treasures restored to their proper custody, and general confidence reëstablished. How soon this may be done, it remains with the people themselves to decide; but until it is done, and all done, we shall look in vain, either for an end to distraction in the public councils, or an end to embarrassment and suffering among the people.

REPORT

ON THE REMOVAL OF THE DEPOSITS, MADE BY MR. WEBSTER, FROM THE COMMITTEE ON FINANCE OF THE SENATE OF THE UNITED STATES, ON THE FIFTH OF FEBRUARY, 1834.

In Senate of the United States, February 5, 1834, Mr. Webster, from the Committee on Finance, made the following Report:—

The Committee on Finance, to whom has been referred the report of the Secretary of the Treasury of the 3d December, 1833, on the removal of the public deposits from the Bank of the United States, and a resolution, submitted to the Senate by an honorable member from Kentucky, declaring that the reasons assigned by the Secretary for the removal of the said deposits are unsatisfactory and insufficient, have agreed on the following Report:—

The act incorporating the Bank of the United States, as is justly remarked by the Secretary, is a contract, containing stipulations on the part of the Government, and on the part of the corporation, entered into for full and adequate consideration.

The Government became party to this contract by granting the charter, and the stockholders by accepting it. "In consideration," says the charter, "of the exclusive privileges and benefits conferred by this act on the said Bank, the president and directors thereof shall pay to the United States, out of the corporate funds thereof, one million and five hundred thousand dollars, in three equal payments;" and, in another section, it declares that, "during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place within the United States, or the territories thereof, and for distributing the same in payment of the public creditors, without charging commissions, or claiming allowance on account of difference of exchange; and shall do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law."

The section immediately following this provision is in these words: "*And be it further enacted*, That the deposits of the

money of the United States, in places in which the said Bank or Branches thereof may be established, shall be made in said Bank or Branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons for such order or direction."

It is not to be denied or doubted that this custody of the public deposits was one of the "*benefits*" conferred on the Bank by the charter, in consideration of the money paid, and the services undertaken to be performed by the Bank to the Government; and to this custody the Bank has a just right, unless such causes have arisen as may have justified the Secretary in giving an order and direction for changing that custody. Any order or direction, therefore, issued under the provisions of this law, necessarily involves a consideration of the just extent of the Secretary's power, and of the rights of the Bank.

But Congress, in making this provision, unquestionably had in view the safety of the public funds, and certain important financial objects, as well as the making of a just consideration to the Bank for the sum paid and the services undertaken by it; and with this view, also, it has expressed its will that the deposits shall continue to be made in the Bank until good cause shall arise for ordering otherwise. Of this good cause, the Secretary of the Treasury, in the first instance, and Congress ultimately and conclusively, is constituted the judge. Every order, therefore, of the Secretary for changing the deposits, presents for the examination of Congress a question of general political propriety and expediency, as well as a question of right and obligation to the Bank.

These questions may be considered together. They are intimately connected; because the right of the Bank to retain the deposits, and to enjoy the advantages to be derived therefrom, cannot be denied, unless a case is shown to have arisen within the just power of removal vested in the Secretary, and which made it his duty to exercise that power. The Secretary is only to remove the deposits for reasons. Of these reasons he is to give an account to Congress. If they be insufficient to justify the removal, the Bank has a right to a return of the deposits, and the country has a right also to expect that, in that case, the public treasure will be restored to its former place of safety.

The Secretary having removed the deposits, and having reported his reasons to both Houses, the whole subject is now before Congress by way of appeal from his decision; and the question is, whether that decision ought to stand, or ought to be reversed.

The power of the Secretary, under the law, is evidently but

provisional. It is a power which he may exercise in the first instance; but the propriety of his conduct, in every instance of its exercise, is ultimately referred to the wisdom of Congress, and by Congress it must be judged. He is authorized to do the act, but Congress is to examine it when done, and to confirm or reverse it. The Secretary may change the deposits; but, when changed, Congress is to decide on the causes of such change, with authority either to sanction the removal, or to restore the deposits, according to its own judgment of right and expediency.

In order to decide whether the act of the Secretary ought to be confirmed, it is requisite, in the first place, to form a just opinion of the true extent of his power under the law; and, in the second place, to consider the validity of the reasons which he has specially assigned for the exercise of that power in the present case.

The opinion of the Secretary is, that his power over the deposits, so far as respects the rights of the Bank, is not limited to any particular contingencies, but is absolute and unconditional. If it be absolute and unconditional, so far as respects the rights of the Bank, it must be absolute and unconditional in all other respects; because it is obvious, if there be any limitation, that limitation is imposed as much for the benefit of the Bank as for the security of the country. The Bank has contracted for the keeping of the public moneys, and paid for it as for a privilege or benefit. It has agreed, at the same time, that the Secretary shall possess the power of removal; but then it is also agreed, that, whenever this power is exercised, the reasons therefor shall be reported to Congress; Congress being thus constituted the final judge as well of the rights of the Bank, in this particular, as of the good of the country. So that, if the Secretary's power be in truth absolute and unconditional, it restrains Congress from judging whether the public good is injured by the removal, just as much as it restrains it from judging whether the rights of the Bank are injured by the removal; because the limitation, if any, is equally for the security of the Bank and of the public.

If the Bank be interested in retaining the deposits, then it is interested in the truth or falsity, in the sufficiency or insufficiency, of the reasons given for their removal. Especially is it so interested, since these reasons are to be rendered to a tribunal which is to judge over the Secretary, and may form a different opinion on the validity of these reasons, and may reverse his decision. It clearly has an interest in retaining the deposits, and therefore is as clearly concerned in the reasons which the Secretary may give for their removal. And as he is bound to give reasons, this very circumstance shows that his authority is not absolute and unconditional; because, how can an appeal be given from the decision of an absolute power? and how can such a power be called on to

give reasons for any instance of its exercise? If it be absolute, its only reason is a reference to its own will.

The committee think, therefore, that no absolute and unconditional power was conferred on the Secretary; that no authority was given him by which he could deprive the Bank of the custody of the public moneys, without reason; and that, therefore, his opinion is not to be admitted; that in no event can any order for removing the deposits impair the right secured to the Bank by the charter. If removed without good cause, the committee think the removal does impair the rights of the Bank.

But the opinion of the Secretary, as to his own powers, is hardly more limited in respect to the Government and the country, than in regard to the rights of the Bank.

His opinion is, that it is his duty, and within his authority, in this view, also, to withdraw the deposits of the public money from the Bank whenever such a change would, in any degree, promote the public interest. "The safety of the deposits," he says, "the ability of the Bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

By the general interest and convenience of the people, the Secretary can only mean his own sense of that interest and convenience, because they are no otherwise to be ascertained than by his own judgment.

The Secretary's construction of the law is, therefore, that he has power to remove the deposits whenever, for any reason, he thinks the public good requires it.

In this interpretation of the design and object of the law, and this broad construction of the Secretary's power, the committee do not concur.

Although the power of the Secretary is not restricted by any express words or terms, nor by any particular occasions for its exercise specifically and expressly designated or prescribed by the law, yet it is not to be admitted, as the committee think, that this power is to be exercised capriciously, or in an arbitrary manner, or for loose or conjectural reasons, or on any idea of an unlimited discretion vested in the Secretary to judge on the general question of the public welfare; or, indeed, on any other grounds than those of necessity, or plain and manifest expediency, directly connected with the subject over which the power exists.

The keeping of the public money is not a matter which is left, or was intended to be left, at the will of the Secretary, or any other officer of the Government. This public money has a place fixed by law, and settled by contract; and this place is the Bank of the United States. In this place it is to remain until some

event occur requiring its removal. To remove it, therefore, from this place, without the occurrence of just cause, is to thwart the end and design of the law, defeat the will of Congress, and violate the contract into which the Government has solemnly entered.

It is fit to be observed, that no other law confers on the Secretary such a wide discretion over the public interests in regard to any subject, or gives him a power to act on the rights of others, or on the rights of the public, in any part of his official duties, with so unlimited an authority as is here asserted. Every where else he appears in the character of a limited and restricted agent. He is the financial officer of the Government; he is the head of the Department of the Treasury. His duty is, to report annually to Congress the state of the finances, and to communicate to either House, when requested, any information respecting the Treasury; and he is to superintend the collection of the revenue. But he has no authority over the circulating medium of the country, either metallic or paper; nor has he the control of the national currency. It is no part of his duty either to contract or expand the circulation of bank paper, nor in any other way to exercise a general superintendence over the money system of the country. These general interests of the Government and the people are not confided to his hands by any of the laws which created his office, and have prescribed his duties; and the committee are of opinion, that the charter of the Bank no more intended to give such a wide scope to the Secretary in regard to the deposits, than other laws intended to give him the same wide scope in respect to other duties of his office. No intimation of such intention is found either in the charter itself, or in any of the legislative debates which took place in both Houses when the Bank was established, or in the discussions which have been had on the various occasions which have been more recently presented for calling forth the sentiment of Congress. In none of these sources is there to be found any proof that the Legislature has delegated, or intended to delegate, this extraordinary power of judging of the general interest of the people to the Secretary of the Treasury. Such a power, did he possess it, would necessarily make him the general superintendent of all the proceedings of the Bank; because it would enable him to compel the Bank to conform all its operations to his pleasure, under penalty of suffering a removal of the public moneys. This would be little less than placing all the substantial power of managing the Bank in his hands. But he is not by law its manager, nor one of its managers; nor has he any right, in any form, to interfere in its management. On the contrary, the very language of the charter rejects all idea of such general supervision over its concerns by him, or any other officer of Government. That language is, that, "*for the management of the affairs*

of the corporation, there shall be twenty-five directors annually chosen;" and, under the restrictions contained in the charter, these directors are intrusted with the whole general business of the Bank, subject, of course, to all the provisions of the charter and the by-laws; subject, too, always to the inspection and examination of either House of Congress; subject always to regular inquiry and trial; and bound always to communicate to the head of the Treasury Department, on request, statements of its amount of stock, debts due, moneys deposited, notes in circulation, and specie on hand.

Under these restrictions, the establishment of its offices, and the appointment of its officers; the amount of its discounts, and every thing respecting those discounts; its purchases and sales of exchange, and all other concerns of the institution, are to be conducted and managed by the directors. There is nothing in the charter giving the slightest authority to the Secretary to decide, as between the Bank on the one hand, and the Government or the people on the other, whether the general management of the directors is wise or unwise; or whether, in regard to matters not connected with the deposits, it has or has not violated the conditions of its charter. The statement which the Bank is bound to make to the Secretary the may lay before Congress; and he is, doubtless, bound by his official duty to communicate to Congress any other information in his possession, tending, in his judgment, to show that the Bank had disregarded its charter, or failed to fulfil all or any of its duties; but here his authority, so far as it regards the general course and operation of the Bank, ends. It is then for Congress to act, if it see occasion, and to adopt the regular remedies for any evils which it may suppose to exist. But it transcends the power of Congress itself to pronounce the charter violated, without hearing—without trial—without judgment; far less is any such power of pronouncing final judgment confided to the Secretary. His power simply is, that, in regard to the deposits of the public money, he is to judge, in the first instance, whether just cause has arisen for their removal.

The Secretary seems to suppose—indeed, the very basis of his argument assumes—that the law has confided to him a general guardianship over the public welfare, so far as that welfare is in any way connected with the Bank, or liable to be affected by its proceedings; and that he holds the power of removing the deposits as the means or instrument by which he is to enforce his own opinions respecting that welfare. The committee do not adopt this opinion. They think that, if such had been the design of the law, its provisions would have been very different from those which it does actually contain.

If such general guardianship had been intended to be conferred

on the Secretary, it is reasonable to believe that he would have been vested with powers more suitable to such a high trust. If he had been made, or intended to be made, general inspector or superintendent, other authority than merely that of removing the deposits would have been given him, for this plain reason—that the Government and the country have interests of much magnitude connected with the Bank, besides the deposits of the public moneys in its vaults; and to which interests, if endangered, the removal of the deposits would bring no security.

The Government is proprietor of seven millions of the stock of the Bank; and yet no authority is given to the Secretary to sell this stock under any circumstances whatever, or in any other way to interfere with it.

The bills and notes of the Bank, too, are made receivable in all payments to the United States, until Congress shall otherwise order; and no power is given to the Secretary to prevent their being so received, either during the session of Congress or in its recess, however the credit of these bills and notes might become depreciated.

How is it possible to conceive that, if Congress intended to give to the Secretary a general right to judge of the operations and proceedings of the Bank,—and a power, of course, to declare when it had violated its duty, and was no longer trustworthy,—it should yet leave him under an absolute obligation to receive its bills and notes in all payments to the Treasury, though they might have lost all credit, and place no means in his hands to execute his high authority of superintendent, except the mere power of removal?

Wherever it is clear that Congress has given the Secretary a power, it has given him the means of informing his judgment as to the propriety of exercising that power. He has power to remove the deposits; and ample means are afforded him by which he may learn, from time to time, whether those deposits are safe. For this purpose, it is expressly made the duty of the Bank to furnish him, so often as he shall require, if not oftener than once a week, with statements of the amount of the capital stock of the corporation, of the debts due to it, of the moneys deposited in it, of its notes in circulation, and specie on hand; and he has a right to inspect the general accounts in the books of the Bank relating to this statement. This statement enables him to judge of the solvency and stability of the Bank, and of the safety of the public money deposited in it. Here, then, is a power, and all appropriate means given for the just and enlightened exercise of that power. Confined to the deposits, the power is accompanied with all rational auxiliaries and attendants.

But for the depreciation of the bills of the Bank, should that happen, and for other cases of maladministration, Congress has

provided just and appropriate remedies, to be applied by itself or others, in exclusion of the Secretary. For redress of these evils no power is given to him.

For the security of the public interest, the law reserves a right to either House of Congress to inquire, at all times, into the proceedings of the Bank; and if, on such inquiry, it appears in any respect to have violated its charter, Congress may bring it to trial and judgment. Power is given to the President, also, to institute judicial proceedings, if he shall have reason to believe that any such violation has taken place. But no such power is given to the Secretary.

The proposition, then, cannot be maintained, that Congress has relied, for the security of the public interests, and the preservation of the general welfare, so far as it is connected with the Bank, on a general discretion reposed in the Secretary, for two reasons—first, because it has not given him the appropriate powers of remedy in the most important instances; and, secondly, because it has, in those instances, either expressly reserved those powers to itself, or expressly conferred them on the President.

If the Secretary cannot prevent the notes of the Bank from being received at the custom-houses and the land-offices, even after they should be discredited; if he have no power to touch, in any way, the seven millions of stock belonging to the Government; if the power of examination into the proceedings of the Bank be given, not to him, but to either House of Congress; if he have no power, but Congress and the President each has power, to direct a legal investigation into the conduct of the Bank,—how can it possibly be maintained that a general inspection and guardianship over the public welfare, so far as it is connected with the Bank, is confided to him; and that his authority to remove the deposits was given, not to protect the deposits themselves, and secure their proper use, but to enable him to enforce upon the Bank, under penalty of their removal, such a course of management as his sense of the public interest and of the convenience of the people may require? Such a construction would give the law a strange and an undeserved character. It would convert the power of removal, intended for remedy and redress, into a mere instrument of punishment; and it would authorize the infliction of that punishment, without hearing or trial, in the very cases in which the law yet says that, if violation of duty be charged, the charge shall be heard and tried before judgment is pronounced; and the duty of preferring this charge, and of prosecuting it to judgment, is given, not to the Secretary, but to Congress and to the President.

The contingent power given to the Secretary to remove the deposits, evidently shows that Congress contemplated the possibility

of the happening of some sudden evil, for which either no other remedy was provided, or none which could be applied with sufficient promptitude; and for which evil, removal would be a just and appropriate remedy. The remedy prescribed, then, teaches us the nature of the evils which were apprehended. We can readily understand that threatened danger to the funds was one, and probably the chief of those evils; because change into other hands is the ready and appropriate measure which would rationally suggest itself to all minds as the proper security against such danger; and change is the remedy actually prescribed. Neglect to transfer the deposits from one place to another, as the exigencies of Government might require, and thereby to furnish those facilities of exchange which the charter demands of the Bank without commission and without charge, is another evil, for which, should it happen, the remedy would naturally be the withdrawing of the funds, and the placing of them in their former custody, so that they could be transferred or exchanged by the Treasury itself.

But who can see any connection or relation, such as ordinarily exists between an evil apprehended and a remedy proposed—between such an evil as a supposed over-discount, for instance, by the Bank at one time, or an under-discount at another, and the abrupt removal of all the public deposits? And if no one can see the connection, how can it be supposed that, in giving the power of removal as a remedy, Congress had in view any such evil?

A question may arise between the Government and the Bank respecting the right of the parties to the sum of one hundred and fifty thousand dollars, as in the case of the French bill.

It is a question on which different opinions may be entertained, and which is, in its nature, fit for judicial decision. Does any man imagine that such a case as this was in the eye of Congress when they granted the power of withdrawing the whole public treasure from the Bank? Can it be for one moment maintained, that Congress intended that, in such a case, the Secretary should compel the Bank to adopt his own opinion, by the exercise of a power, the very exertion of which deranges the currency, interferes with the industry of the people, and, under some circumstances, would hazard the safety of the whole revenue?

The committee think it cannot admit of rational doubt that, if Congress had intended to give to the Secretary any power whatever, not directly touching the deposits themselves, not only would it have specially pointed out the cases, but it would also, most assuredly, have provided a remedy more suitable for each case. The nature of the remedy, therefore, which is prescribed, clearly shows the evils intended to be provided against.

To admit that the Secretary's conduct is subject to no control

but his own sense of the general interest and convenience of the people, is to acknowledge the existence, in his hands, of a discretion so broad and unlimited, that its consequences can be no less than to subject, not only all the operations of the Bank and its offices, but its powers and capacities, perhaps its very existence, to his individual will. He is of opinion that the law creating it is, in many of its provisions, unconstitutional: he may not unnaturally, therefore, esteem it to be his duty to restrain and obstruct, to the utmost of his power, the operation of those provisions thus deemed by him to be unconstitutional. He is of opinion that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people. It would result from this, that, if, in the discharge of his official duty, he is to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the deposits. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting, an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

The power conferred on the Secretary is a trust power, and, like other trust powers, in the absence of express terms setting forth the occasions for its exercise, it is to be construed according to the subject and object of the trust. As in other cases of the deposit of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe keeping of the money. The Secretary's trust, therefore, primarily and principally respects this safe keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund; and that is its transfer and exchange from place to place, as the convenience of Government might require. The Secretary's trust, therefore, respects also this other object, thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent none can doubt the existence of his power. If, in truth, the money is believed to be unsafe—if, in truth, the Bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund —then, certainly, it ought to be removed. But here the power must stop, or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

The charter of the Bank is the law—it is the expressed will of the Legislature. That will is that the Bank shall exist, with all its powers, to the end of its term. That will, too, as the committee think, is that the public deposits shall continue in the Bank so long as they are safe, and so long as the Bank fulfils all its duty in regard to them. The Secretary assumes a broader ground. He claims a right to judge of the proceedings of the Bank on all subjects. Admitting the fund to be safe, and admitting that the Bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposits whenever he shall form an opinion, founded on the conduct of the Bank in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal If, in his opinion, it discounts too little, or discounts too much—if it expands or contracts its circulation too fast or too slow—if its committees are not properly organized—if it claims damages on protested bills, which it ought not to claim—if, in his opinion still, it is guilty of a wrongful meddling in politics, or if it do any thing else not consistent with his sense of the public interest—he has a right to visit it with a withdrawal of the public money from its custody.

If this claim of power be admitted, it would seem to the committee to be a fair result, that the Secretary has power to withdraw the deposits for no other reason than that he differs with Congress upon its Constitutional authority to create any bank, or upon the Constitutionality of this particular Bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges till its term shall expire.

The committee, therefore, are of opinion that it was not the intention of the Legislature to give to the Secretary of the Treasury a general guardianship over the public interests in all matters connected with the Bank; but that his power is a limited one, and is confined to the safety and the proper management of that portion of the public interest to which it expressly relates; that is to say, to the public moneys in deposit in the Bank.

But the extent of the Secretary's discretion, as asserted by himself, reaches even farther than the wide range which the committee have here described. It is not confined to the protection of all the various interests which the Government and the country have in the Bank, or to a supervision and control over all the conduct of the Bank; but it embraces all branches of the public interest, and touches every thing which in any way respects the good of the people. He supposes himself rightfully to possess the power of removing the deposits, whenever any causes, springing up in any part of the whole wide field of the general interest, may appear to him to call for such removal. Notwithstanding he may suppose

all the great interests confided to the Bank to be perfectly safe—notwithstanding he may have no occasion to complain of any part of its conduct—notwithstanding, even, it may so have demeaned itself as to have become the object of his favor and regard—yet, if his construction be admitted, he may remove the deposits simply because he may be of opinion that he might place them, with a prospect of still greater advantage, in other hands. If he be of opinion that the commerce of the country, or its manufactures, would be benefited by withdrawing the public money from one bank and placing it in many, that would be an exercise of authority entirely within the limits which he prescribes to himself. It would be a case in which he would only follow his own sense of what the general interest and convenience of the people required. He might think, too, that, by withdrawing all the public treasure from the Bank of the United States, and placing it in the hands of twenty or thirty State banks, to remain there during his pleasure, and to be drawn thence, again, at his will, he might be enabled effectually to advance certain other objects, which, whatever others might think of them, he might consider to be essential to the good of the people. All this, if he be right, is within his just authority. A power necessarily running to this extent is a power, in the opinion of the committee, which can never be admitted.

Having thus expressed an opinion upon the general extent of the power claimed by the Secretary, the committee proceed to consider the reasons which he has reported to Congress as the particular grounds on which the power has been exercised in the present case.

The first reason assigned by the Secretary is the near approach of the period when the Bank charter will expire. That period is the 4th of March, 1836, more than two years distant; nearly two years and a half at the time of the removal. Three sessions of Congress are, in the mean time, to be holden; and inasmuch as the Secretary himself says that "the power over the place of the deposits for the public money would seem properly to belong to the legislative department of Government," the committee think it might reasonably have been expected by him that Congress would not fail to make, in season, suitable regulations on a subject thus admitted to be within the just exercise of its authority, and properly one of its duties.

Why, then, should he not have waited till Congress had seen fit to act upon the subject, or had manifested a disposition not to act? The matter of the deposits had been before Congress last session; and Congress had then thought no provision to be, as yet, necessary. Its undoubted sense was, that the public moneys should remain where they were. This was manifested by proofs too clear to be questioned. Another session was fast approaching;

and why was not the whole subject left where Congress had chosen to leave it at the end of its last session, to await the free exercise of its legislative power at this session? It might have been fit for the Executive to call the attention of Congress, at this time, to the necessity of some legal provisions respecting the future custody of the public moneys; and it would, doubtless, have been proper for Congress, without such call, to take up and consider the subject at its own suggestion; but the committee see no reason whatever, in the approaching expiration of the charter, for a change so sudden, and producing such important effects, made so long before that expiration, at a time when Congress had recently had the subject before it, and when, too, it was again about to assemble, and would naturally have reasonable and full opportunity to adopt any necessary legislative provisions.

The Secretary has stated no reason satisfactory to the committee for not deferring this important step until the meeting of Congress. He sets forth no emergency, no sudden occasion, nothing which, in their judgment, made immediate action by him necessary.

The Secretary supposes it to have been his duty to act on the belief that the Bank charter would not be renewed; and he refers to recent popular elections in support of this opinion. The committee believe it altogether unusual for reasons of that kind to be assigned for public and official acts. On such subjects, opinions may be very various. Different and opposite conclusions may be drawn from the same facts by different persons. One man may think that a candidate has been elected on account of his opposition to the Bank; another may see only that he has been chosen, notwithstanding such opposition. One may regard the opposition, or the support, of any measure, by a particular candidate, as having been itself a promoting cause of the success of his election; another may esteem it as a formidable objection, overcome, however, by more powerful reasons; and others, again, may be of opinion that it produced little or no effect on the one side or the other. But if inferences less uncertain could be drawn from such occurrences, the committee still think, that for a public officer to presume what law the Legislature will or will not pass, respecting matters of finance, from the election of a particular person to be Chief Magistrate, implies a consequence from such election which the Constitutional independence and dignity of the Legislature do not allow to be admitted.

But if, for this or other reasons, the Secretary had persuaded himself that the charter of the Bank would not be renewed, still it certainly did not follow that the deposits ought to be removed before Congress had decided on the hands into which they should be transferred, and had made suitable regulation respecting their future custody. If there were good ground for thinking that Con-

gress would not recharter the Bank, for that very reason there was equally good ground for supposing that it would make proper and seasonable provision for the keeping of the public moneys elsewhere. How could the Secretary doubt that Congress would omit to do that which he avers to be one of its appropriate duties? The question is, not what measures Congress might be expected to adopt—whether the rechartering of the Bank, or what other measures; but whether it ought not to have been presumed that it would adopt some measure, and that a seasonable and proper one, according to its power and its duties; and whether, therefore, this anticipation of the action of Congress, on the eve of its session, is to be justified.

The Bank charter declares that the deposits of the public money shall be made in the Bank and its offices, and that the Bank shall continue till March, 1836. Where does the Secretary find his power to decide that the deposits shall be so made but for seventeen years from the date of the charter, instead of twenty? If he may thus withdraw the deposits two or three years before the expiration of the charter, what should restrain him from exercising the same authority five years before its expiration, or ten years? A plain and cogent necessity, the existence of a case which admits of no reasonable doubt, and which is too urgent for delay till Congress can provide for it, can alone justify an interference with the public moneys, lodged in the Bank by law, for the double purpose of safe-keeping, and fulfilment of solemn contract.

But, supposing it not reasonable for the Secretary to have expected the interposition of Congress, and admitting that he might consider the withdrawing of the deposits as an act which was to be done, at some time, by himself, how can it, nevertheless, be argued, that so early and so sudden a withdrawal was necessary? The committee can perceive no possible reason for this, in any state of facts made known to them.

The withdrawal of the money, left on deposit, from a bank whose charter is about to expire, is naturally one of the things longest postponed. It is as safe the last day of the existence of the Bank, in common cases, as at any previous period. The Bank expects the recall of its deposits, near the period of its expiration, and prepares itself accordingly. The operation, if made gradually, produces, when thus conducted, the least possible disturbance in the business of the community. Former experience would seem to have held out a salutary light for the guidance of the Secretary in this part of his official duty.

At the time of the expiration of the charter of the former bank, Mr. Gallatin was Secretary of the Treasury, and the public deposits were in the bank. The charter of the bank was to end on the 4th of March, 1811; and it does not appear that Mr. Gallatin

thought it necessary to make any provision whatever for removing any part of the deposits, except by drawing on them for the common uses of Government, until late in the very month preceding the expiration of the charter. A large amount of those deposits remained, indeed, in the vaults of the bank after the charter had expired, and until they were wanted in the general operations of the Treasury. And why should it be otherwise? Why should that be done suddenly now, which the Secretary thinks could not be done suddenly hereafter without great inconvenience? Is it not the just inference, from his own argument, that the thing should not have been done suddenly at all? As to the idea that the credit of the paper of the Bank will be depreciated near the time of the expiration of its charter, or that it would be inconvenient for it, at that time, to be called on for the deposits, the committee are utterly at a loss to see the slightest foundation for such an opinion. Experience is against it; and all reason, as the committee think, is against it also. There is nothing to render it in any degree doubtful that the bills of the Bank will be in as good credit the last day of its charter, and even after that time, if any shall be outstanding, as they are now; and there is as little to render it doubtful that then, as now, the Bank would be competent to answer all demands upon it. In the opinion of the committee, the withdrawal of the fund was both unnecessarily early and unnecessarily sudden. It might have been made gradual; it might have been deferred; and it might have been, and ought to have been, as the committee think, not ventured upon at all, until the attention of Congress itself had been called to the subject. The committee, therefore, entirely dissent from this first reason reported by the Secretary. They see nothing which proves to them the existence of the slightest occasion for taking this important step at the moment it was taken. So far as it depends on this reason, the committee think the removal was made without necessity, without caution or preparation, with a suddenness naturally producing mischievous consequences, and in unjustifiable anticipation of the legislation of Congress.

But the Secretary thinks there are other reasons for the removal, growing out of the manner in which the affairs of the Bank have been managed, and its money applied, which would have made it his duty to withdraw the deposits at any period of the charter.

Of these reasons, thus arising from the alleged misconduct of the Bank, the first is, that many important money transactions of the Bank are placed under the control of a committee of exchange, of which committee, no one of the public directors, as they are called, is allowed to be a member, instead of being transacted by a board of seven directors.

This charge consists of two parts:—first, that the discounts of bills

are made by a committee, and not by a quorum of the board; second, that the public directors are not allowed to be of this committee.

First. It is not alleged that, in the discounts of bills by this committee, any indiscretion has been committed, or any loss incurred, or that, in consequence thereof, any facility to the mercantile community has been withheld, or any duty of the Bank to the Government violated. The objection is, simply, that bills are discounted by a committee. Supposing this to be an irregularity, or illegality, in the proceedings of the board, how is it to be corrected by withdrawing the deposits? What connection is there between the two things? It is not pretended that this mode of discounting bills endangered the deposits; it is not pretended that it made the Bank either less able or less willing to perform every one of its duties to Government. How should the withdrawal of the deposits, then, be suggested by the discovery of such an irregularity, real or supposed? The committee are not able to perceive the least propriety in applying the power of removal to a proceeding of this kind, even if it were admitted to be irregular or illegal. But is the practice illegal? It is believed to be not at all unusual. It is believed to be quite common, in banks of large business, for bills of exchange, which are presented every day, and almost every hour in the day, to be discounted either by a committee of the directors, or by the president, or even other officers, acting under such general orders and instructions as the directors, at their stated meetings, prescribe. A large board of directors cannot assemble every day —perhaps not oftener than twice a week. If bills of exchange could only be discounted at these periodical meetings, the business of exchange could not go on with the promptitude and despatch so important to commercial men in such transactions.

The committee suppose the truth of these remarks will be at once admitted by all who have knowledge of business of this kind.

The general management and control, the authority of examining and supervising, of contracting or enlarging the amount of daily discounts, according to the state of the Bank, and of giving every other order and direction on the subject, still remains with the directors, and is constantly exercised by them. They still manage the affairs of the Bank, in the language of the charter, although they may depute to a committee the authority of inquiring and deciding upon the credit of persons whose names are on bills of exchange offered for discount, and on the rate of exchange current at the day. The legal question would be, whether the directors, by rule or by law, may not authorize a small number of their own board to discount bills. The Bank has been advised that it might rightfully do this; and if it be not clear that this opinion is right, it is certainly far from clear that it is wrong; and in this

state of the question, the general practice of other banks, under similar provisions in their charters, may well relieve the directors from the imputation of intentional mismanagement.

If, in all this, the Bank has violated its charter, what other banks of extensive business have not done the same thing?

But the other subject of complaint, and that which seems to be regarded as the more offensive part of this regulation, is, that the public directors, as they are called, were not allowed to be on this committee.

It may be observed, in the first place, that, if the discounting of bills of exchange by a committee, instead of the whole board of directors, be illegal, it would hardly be rendered legal by placing any or all of these public directors on the committee as members. But the Secretary seems to suppose that there was some particular object in this exclusion of these directors, as if there had been something wrong to be done, and therefore secrets to be kept, by this committee. It is not easy to see what foundation there can be for this opinion. All those discounts are matter of record. They appear every day in the books of the Bank. Every director, on or off the committee, sees them, or may see them, at pleasure. There is no secrecy, nor any motive for secrecy, so far as this committee can perceive. Very proper causes may have existed, for aught that can be known by the Senate, for the omission of these particular directors from this particular committee. Their services might have been deemed more useful in other committees; or, however respectable in general character, or however useful in other parts of the direction, they may have been esteemed not so well acquainted as others with the business of foreign or domestic exchange. And even if there were, or are, other causes for the omission, such as tend less to prove the existence of that harmony and mutual respect which it is so desirable should prevail in such a board, these causes cannot furnish any just ground for asserting, either that the business of exchange was illegally conducted, or that the constitution of the committee was proof of the existence of any motive not fit to be avowed.

But the Secretary entertains an opinion respecting the character and duties of the directors appointed by the President and Senate, in which the committee do not concur. He denominates them "public directors," "officers of the Government," &c.

By the charter of the Bank there are to be twenty-five directors. Of these, twenty are to be chosen by the individual stockholders, and five appointed by the President, with the advice and consent of the Senate. As the Government owned one fifth of the stock of the Bank, it was judged expedient to place in the hands of the President and Senate the appointment of one fifth of all the directors. But they are not called public directors, nor officers of

the Government, nor public agents; nor are they entitled, so far as the committee can perceive, to either of these appellations, any more than the other directors. The whole twenty-five directors are joint managers of a joint fund, each possessing precisely the same powers, and charged with the same duties as every other. They derive their appointments, it is true, from different origins, but, when appointed, their authority is the same. There is not one word in the charter intimating, in the remotest manner, that the five directors appointed by the President and Senate have any particular duty, or are the objects of any peculiar trust. The charter calls them not Government directors, not public directors, but simply the directors appointed by the President and Senate. They are placed in the direction to consult with the other directors for the common good of the Bank, and to act with these others, and vote with them on all questions. They are, what the law calls them, directors of the Bank, not agents of the Government. They are joint trustees with others in a joint interest. If any thing illegal or improper takes place in the board, they are bound to resist it by the duty which they owe the individual stockholders, as much as by the duty they owe the Government; because they are agents of the individual stockholders, and have the same authority to bind them, by their acts, as to bind the Government; and, in like manner, it is the duty of those directors who are appointed by the individual stockholders, to give notice, as well to Government as to the stockholders, if any thing illegal take place or be threatened. All those directors act and vote together, on the smallest as well as on the highest occasions, and, by their joint votes, bind the corporation, and bind both the Government and individual stockholders to the extent of their respective interests in the corporation.

If the directors appointed by the President and Senate had been excluded by the charter from any part of the power exercised by the others; if it had been forbidden them to interfere, to the same extent, and with the same effect, as the rest, in the common business of the Bank, there might be some reason for supposing that an uncommon character—a character not so much of action as of supervision and inspection—was intended to be conferred on them. But they do interfere, and justly, in all transactions of the Bank. They do vote and act on all subjects like the other directors. Being, then, possessed of this common character of directors, and enjoying all its powers to the fullest extent, the committee know no form of argument by which an uncommon and extraordinary character is to be raised by construction, and superadded to the common character of directors which thus already belongs to them.

By granting the charter, and by accepting it, the Government

on the one hand, and the individual stockholders on the other, have agreed, that, of the directors, as joint agents of all parties, the stockholders shall appoint twenty, and the Government five. The interest of all parties is confided to this joint agency; and any distinction in their powers, as arising from their different modes of appointment, is, in the judgment of the committee, not to be sustained. They regard such distinction as entirely inconsistent with the nature of the agency created, and as deriving not the least countenance from any thing contained in the law.

The committee, nevertheless, to avoid misapprehension, wish to repeat, that it is undoubtedly the duty of the directors appointed by the President, and of all other directors, to give notice, both to Government and the stockholders, of any violation of the charter committed or threatened.

The Secretary of the Treasury has thought proper to observe that the measures of the committee of exchange are, as it appears, designedly, and by system, so arranged as to conceal from the officers of the Government transactions in which the public are deeply involved. This, it must be admitted, is a very serious charge. It imputes a corrupt motive. The committee have sought for the foundation, either in evidence or argument, on which this charge rests. They have found neither. They find only the charge, in the first place; and then they find the charge immediately stated as a fact, and relied on as the basis of other charges.

The second reason specially reported by the Secretary as arising from the conduct of the Bank, respects the bill of exchange drawn by the Secretary of the Treasury on the government of France, and purchased by the Bank.

The general facts connected with this case are these:—

By the late treaty of indemnity between the United States and France, it was stipulated that the French government should pay to that of the United States twenty-five millions of francs, to be distributed among those American citizens who had claims against France for the unlawful seizure, capture, and condemnation, of their vessels and property; the whole sum to be paid in annual instalments of four millions one hundred and sixty-six thousand six hundred and sixty-six francs each, into the hands of such persons as shall be authorized by the Government of the United States to receive it; the first instalment to be paid at the expiration of one year next following the exchange of the ratification.

On the expiration of the year, the Secretary drew a bill of exchange, signed by himself as Secretary, on the French government, for the amount of this instalment, and sold it to the Bank, like any other bill of exchange, and received the proceeds by credit of the amount to the account of the Treasurer in the Bank.

On the presentment of this bill at the French treasury, payment was refused; the bill was accordingly duly protested, and it was taken up by a third person for account of the Bank. The damages accruing on this bill, according to law and constant usage in such cases, are one hundred and fifty-eight thousand dollars.

If this bill had been transferred by the Bank, as probably it was, the Bank itself would have been answerable for damages, even at a higher rate, if a third person had not taken up the bill for the honor of the Bank.

On receiving information of the protest of the bill, the officers of the Bank, as was their duty, gave immediate notice to the Treasury Department, and accompanied that notice with the information, always given in such cases, that the drawers of the bill would be held answerable for the damages. Such is the substance of the facts in this case.

The Bank, it would appear, was willing to collect the bill on account of Government, and to credit the Treasury with the proceeds when received—a course of proceeding which had this to recommend it, that the money to be received on the bill was to be received by the Government simply in trust for claimants under the French treaty, and was not ultimately destined to the ordinary uses of the Treasury. On the contrary, indeed, before the dishonor of the bill was known, it had been made, already, the legal duty of the Secretary to place the fund, so soon as received, at interest, for the benefit of the claimants.

But it was thought best to sell the bill, and to realize at once its amount into the Treasury; and the bill was sold to the Bank, in preference to others offering to purchase, for no reason, it is to be presumed, except that the terms of the Bank were more satisfactory. The bill was thus purchased by the Bank, and its proceeds credited to the Treasury. This was a mere transaction of the purchase and sale of a bill of exchange. There was no trust confided to the Bank, and no fiscal agency in the whole matter. Indeed, the agency of the Bank had been declined, the Secretary preferring to deal with it, not as an agent, but as a purchaser, proposing to it not to collect the bill, but to buy it. On being remitted to Europe, and presented for payment, the bill was protested. By the universal commercial law, the Government, on the occurrence of this protest, became amenable to the Bank for the amount of the bill, with damages. These damages may be ultimately claimed, with justice, from the French government, if the bill was drawn upon sufficient grounds, and on proper authority; in other words, if the obligation of the French government was such, that it was bound to accept and pay the bill; but unless there be something in the case to vary the general rule, which the committee do not perceive, these damages were part of the debt

which had become due to the Bank, as much as the principal sum of the bill. If this be so, how could the directors relinquish this part of the debt, any more than the other? They are agents for the corporation; they act as trustees, and have no authority, without consideration, to release either to the Government or to individuals debts due or properly belonging to the corporation.

It has been suggested, that the Bank should have taken up this bill, when protested, on Government account. Two answers may be given to this suggestion: the first is, that the bill had been taken up by a correspondent abroad for account of the Bank, before it was known in the United States that it had been protested. The second is, that it would have been unlawful for the Bank to have advanced such amount to the Government, or on account of Government, for the purpose of taking up this bill, or for any other purpose, without an act of Congress. The express words of the charter forbid it.

But, as a reason for removing the deposits, it appears to the committee quite immaterial whether the Bank be right or wrong in claiming these damages. If wrong, it will not recover them. It is not the judge of its own rights; and if the appropriate tribunals shall decide that the Bank was acting, on this occasion, or ought to have acted, as the agent of Government, or that it was its duty to take up the bill on account of Government, then the damages will not be awarded to it. And in the worst aspect of this case, how can its conduct, in this respect, be any possible reason to justify the removal of the deposits? What connection has this occurrence with the safe-keeping of the public treasures, or with the remitting them from place to place, to meet the convenience of Government, according to the duty of the Bank under the charter? The Bank thinks itself entitled to damages on a protested bill purchased and held by itself, and drawn by Government. The Secretary of the Treasury thinks otherwise. If there be no reason to doubt the sincerity of the Secretary's conviction, there is as little to doubt the sincerity of that entertained by the Bank; and it is quite inconceivable to the committee that the pendency of such a difference of opinion, on such a question, should furnish any reason whatever for withdrawing the deposits, unless it be at once admitted that the Secretary holds the power of removal as a perfectly arbitrary power, and may exercise it, by way of punishment, whenever, in any particular, the conduct or the opinions of the Bank do not conform to his pleasure.

The Secretary does not argue this matter. He offers no reason in opposition to the legal right of the Bank to the damages claimed. Indeed, he hardly denies the right. He commences his observations on the subject by saying that the ruling principle of the Bank is its own interest; and closes them with another declaration,

that, as fiscal agent to the public, it availed itself of the disappointment of its principal for the purpose of enlarging its own profits.

Assertions like these, however else they may be disposed of, cannot be made subjects of argument.

The last charge preferred against the Bank is, that it has used its means with a view to obtain political power, and thereby secure the renewal of its charter.

The very statement of such a charge, as a reason for removing the deposits, is calculated to excite distrust in the wisdom and propriety of that measure; because the charge, too general to be proved, is too general, also, to be disproved; and since it must always rest mainly on mere opinion, it might be made at any time, by any Secretary, against any bank. It would be, therefore, always a convenient cloak under which to disguise the true motives of official conduct.

If proof be made out that the funds of the Bank have been applied to illegal objects, the proper mode of redress and punishment should have been adopted; but what has this to do with the deposits? As in the case of the French bill, the Secretary cannot justify the removal of the deposits on any such ground as this, unless it be conceded that he may use the power of removal as a punishment for any offence, of any kind, which the Bank, in his opinion, may have committed. The committee have already expressed the opinion that no such latitude of power belongs to him; and the assertion of such a power, for such a cause as is now under consideration, shows that the power ought never to belong to any Secretary; because the offence on account of which it is here proposed to be exercised is a political offence, incapable of definition, depending merely on the Secretary's opinion, and necessarily drawing into its consideration all the exciting controverted topics of the day. The Bank, it is said, "has sought to obtain political power." What is the definition of such an offence as this? What acts constitute it? How is it to be tried? Who is to be the judge? What punishment shall follow conviction? All must see that charges of this nature are but loose and vague accusations, which may be made at any time, and can never be either proved or disproved; and to admit them as sufficient grounds to justify the removal of the deposits, would be to concede to the Secretary the possession of a power purely arbitrary.

The main fact relied on for this cause of removal shows how extremely unsafe all proceedings on any such reasons must be. That main fact is, that, between December, 1830, and December, 1831, the Bank extended its loans twenty millions of dollars; and it is further alleged that, as if to leave no doubt of the motive of this extraordinary conduct, it continued to add rapidly to its

loans, until, in May, 1832, while its petition for renewal was pending, those loans amounted to seventy millions. And the Secretary declares that this extraordinary increase of loans, made in so short a space of time, and on the eve of a contested election, in which the Bank took an open and direct interest, demonstrates that it was using its money to obtain a hold upon the people of the country, to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. This is strong assertion; but, so far as the committee perceive, it is assertion merely. It is but the Secretary's own inference from facts, from which very facts his predecessors in office have drawn no such conclusions.

This great extension of the loans, be it remembered, took place in 1831. Why was it not then complained of? How should it have escaped the vigilance of the Secretary of that day at the time it took place? And, if it did not escape his vigilance, why did he not remove the deposits? So, also, as to the amount of loans in May, 1832. That amount was perfectly well known at the time; and if it proved any offence, why was not the punishment inflicted then? How should all other Secretaries have slept over this great mischief?

It might further be well asked, What evidence is there of the existence of any such motive as is imputed to the Bank, in this extension of its loans? There is no evidence, but the mere fact itself of the extension; and it cannot be denied, that other and very different reasons for the extension may have existed; so that the charge is proved no otherwise than by inferring a bad motive, from an act lawful in itself, and for which good reasons may have existed.

Nor is it either acknowledged, nor, so far as the committee know, proved, that the Bank took an open and direct interest, as a corporation, in the election referred to. The Bank certainly was much interested in certain accusations which had been brought against it, and which became subjects of public discussion during the pendency of that election. It had been charged with great misconduct, and gross violation of its charter. These accusations must undoubtedly have called on the directors for answer. If made before Congress, they were to answer before Congress; if made judicially, they were to answer in the courts; if made in an official and formal manner, and in that manner submitted to the judgment of the country, the directors were bound to meet them before that country, by every fair use of fact and argument, not only for the purpose of defending themselves as directors, but for the higher purpose of maintaining the credit of the Bank, and protecting the property intrusted to their care. If, in thus defending the Bank before the community, the directors carried their measures

beyond this fair object of defence, or if they resorted to dishonorable or indecorous modes of discussion; if they sought rather to inflame than to reason; if they substituted personal crimination for argument; if even they met invective and violence with corresponding invective and violence,—they followed bad examples, and are not to be justified. But on their right to defend themselves before the public against grave charges brought against them, and urged before the public, the committee entertain no doubt; and they are equally clear in opinion, that the Secretary of the Treasury is not constituted the judge of the mode of exercising this right, and cannot justly remove the deposits merely because the conduct of the Bank, in this particular, has not happened to conform to his wishes.

The committee, therefore, consider this last reason of the Secretary equally insufficient with the rest; and they regard it as the most objectionable of all, in its principle, inasmuch as it proceeds on grounds which, if admitted, would leave a very high official duty to be exercised from considerations connected with the political feelings and party contests of every day, with no guide but the individual opinion of the officer who is to perform the act—an opinion which, it is possible, may itself be no less tinctured with political motive and feeling than the conduct which it would reprehend.

If an unlimited power be conceded to the Secretary to inflict penalties on the Bank for supposed political motives, in acts legal in themselves, where is the security that the judge may not be found acting under the same impulses which he imputes to the party accused?

The committee entertain no doubt that the immediate cause of the existing public distress is to be found in the removal of the public deposits, and in the manner in which that removal has been made. No other adequate cause has been suggested; and those who justify the removal do not so much deny this to have been the cause, as insist that it was not necessary that any such effect should have followed from it. In other words, they argue that, notwithstanding the removal, the Bank still possessed the power, if it had chosen to exercise it, of warding off the blow which has fallen on the country, or at least of mitigating its severity.

Nothing could have been rationally expected but that the Bank, deprived of the deposits, and denounced by the Executive Government, would feel itself called on to take just care of its own interest and its own credit. Of the means necessary to the attainment of these ends, the directors alone were judges, and the committee have no evidence before them to show that they have not exercised their judgment fairly, and with a real solicitude to accommodate the commercial community, in the altered state of

things, as far as has been practicable, consistently with the security of the institution, which it is equally their duty to the public and the stockholders to maintain. They are certainly under every obligation of duty, in the present distressed state of the country, to do every thing for the public relief which is consistent with the safety of the Bank, and with those considerations which the approaching expiration of its charter makes it important for the directors to regard.

The removal itself, and the manner of effecting it, are causes entirely sufficient, in the judgment of the committee, to produce all the consequences which the country has experienced, and is experiencing; and these consequences, they think, are to be referred to those causes as their just origin. How could any other result have been expected? The amount of the deposits was nine millions of dollars. On this amount in deposit there was sustained, no doubt, a discount of far greater magnitude. The withdrawal of this sum of nine millions from the Bank necessarily compelled it to diminish its discounts to the full extent of all that part which may be supposed to have been sustained by it. It is to be remembered, too, that this was done at a moment when business of every kind was pressed with great activity, and all the means of the country fully employed.

The withdrawing of so large an amount, at such a time, from hands actually holding and using it, could not but produce derangement and pressure, even if it had been immediately placed in other banks, and if no unfriendly feeling, and no want of confidence, had attended the transaction. But it is quite obvious, that the operation to which the Secretary has resorted has been attended with both these additional and powerful causes of derangement. It has created unfriendly feelings, and it has diminished confidence. This change of the deposits is made on the strength of charges against the Bank, of a very grave and aggravated nature; such as, if true, would most seriously affect its credit for solvency and stability. It is proclaimed to the whole world as having converted itself into a political partisan, misapplied its funds, neglected its highest duties, and entered on a career of electioneering against the Government of the country.

These serious charges necessarily put the Bank on its defence; and the extraordinary spectacle is exhibited of a warfare by the National Government on the National Bank, notwithstanding that the Government is itself a great proprietor in the Bank, and notwithstanding that the notes of the Bank are the currency in which the revenues of the country are by law receivable.

The true and natural relation between the Government and the Bank is altogether reversed. Instead of enjoying the confidence of the Government, it is obliged to sustain its most serious official

assaults, and to maintain itself against its denunciations. The banks selected by Government as its agents are themselves thrown, perhaps unwillingly, into an attitude of jealousy and suspicion with the Bank of the United States. They become cautious and fearful, therefore, in all their proceedings; and thus those who should cooperate to relieve the public pressure are considering mainly their own safety. Fearful of each other, and fearful of the Government, they see the distress continue, with no power of beneficial interposition.

It may be asked, Why are not these deposit banks able to maintain as large a circulation on the nine millions of deposits as the Bank of the United States? And will they not be thus able when the present panic shall have subsided? The committee think both these questions easily answered.

The Bank of the United States has a credit more general, it may be said more universal, than any State bank does possess. The credit of the Bank of the United States is equally solid, its bills and notes received with equal confidence, for the purpose of circulation and remittance, in every quarter of the country. No paper circulation, so far as the committee know, which ever appeared in the world, has approached nearer to the value and uniformity of a specie currency than the notes and bills of the Bank of the United States. To the State banks these notes and bills have performed the office of specie. All the State banks have discounted, upon the possession of them, with the same freedom and boldness as they would have done on an equal amount of the precious metals. The curtailment of their circulation, therefore, is not merely a withdrawing of the amount curtailed from the general mass of circulation—it is removing, rather, to the amount curtailed, the basis of the general circulation; and although the actual amount of notes and bills has not been recently greatly diminished, there is reason to suppose that the amount held by State banks has been greatly diminished.

The removal of the deposits has operated directly on the amount of the circulating medium, at a moment when that amount could not bear any considerable reduction, suddenly made, without producing sensible effect. It has diminished prices, and, in some instances, it has had this effect to a very material degree. It has operated on the internal exchange, and has, most manifestly, been attended with very serious and heavy inconveniences in that important branch of the national interest. More than all, it has acted on opinion; it has disturbed the general confidence; it has weakened the public faith in the soundness of the currency; and it has alarmed men for the security of property. As yet, we hardly know its effects on the credit of the country in Europe. Perhaps it is not easy to anticipate those effects; but if causes which

operate here should be found to have been efficient there also, a still greater degree of pressure and distress than has yet been felt may be expected.

The committee, therefore, cannot but regard the removal of the deposits, on the whole, as a measure highly inexpedient, and altogether unjustifiable. The public moneys were safe in the Bank. This is admitted. All the duties of the Bank connected with these public moneys were faithfully discharged. This, too, is admitted. The subject had been recently before the House of Representatives, and that House had made its opinion against the removal known by a very unequivocal vote. Another session of Congress was close at hand, when the whole matter would again come before it. Under these circumstances, to make the removal, with the certainty of creating so much alarm, and of producing so much positive evil and suffering, such derangement of the currency, such pressure and distress in all the branches of the business of private life, is an act which the committee think the Senate is called on to disapprove.

The reasons which have thus been stated, apply to the whole proceedings of the Secretary relating to the public deposits, and make it unnecessary to consider whether there be any difference between his power over moneys already in the Bank, and his power to suspend future deposits. The committee forbear, also, to consider the propriety of the measures adopted by the Secretary for the safe keeping of the public moneys since their withdrawal from the Bank. They forbear, too, from entering into any discussion, at present, of the course of legislation proper to be adopted by Congress under the existing state of things. In this report, they have confined their consideration to the removal of the deposits, the reasons assigned for it, and its immediate consequences; and on these points they have formed the opinions which have now been expressed.

They recommend to the Senate the adoption of the resolution which has been referred to them.

REMARKS

IN THE SENATE OF THE UNITED STATES, ON THE AFFAIRS OF THE GENERAL POST-OFFICE, JUNE 27, 1834.

In the Senate, June 27th, 1834, the Report of the committee on the condition of the general post-office, and the resolutions with which the Report concludes, having been taken up and debated by several gentlemen, Mr. Webster, in conclusion, made the following remarks:—

Mr. Webster said that he thought great credit was due to the committee for the labor, diligence, and ability, which its members had bestowed on the subject referred to them. They have now made a report of a very serious character, containing explicit charges of maladministration, and accompanied by the evidence on which those charges are founded. Two members of the committee have made a report, or presented a paper, of their own, in which they undertake in some instances to defend, and in others to excuse, the conduct of the Postmaster-General, and other persons employed in the department. Now, Sir (said Mr. W.), in an affair so complicated, where there are so many charges, and so much evidence, the first question to be asked is, Are any of these charges admitted to be true, by the friends of the Administration, and, if any, which? And, as to the rest of the charges, are they all denied or contradicted, or are some of them, and, if any, which, left without denial or contradiction? The honorable chairman of the committee (Mr. Grundy), who does not agree in the report of the committee, but who is one of the two members who signed the other paper, called the report of the minority, has addressed the Senate repeatedly, on the subject of these charges. Some of them he has objected to; others he has not attempted to rebut; and of others he has said nothing. The honorable gentleman is friendly to the Administration, and to the head of the Post-Office Department; and, therefore, perhaps, it was hardly to be expected that he should show great zeal in the prosecution of this inquiry. Yet I think, Sir, we had a right to expect from him not only his opinion on all the charges, but also some degree of patriotic indignation against lawless acts, which he admits to be lawless. Take,

for example, the first resolution of the committee, which declares that the Postmaster-General has borrowed money on the credit of the United States, without any authority of law. The honorable chairman says, he admits the truth of this charge. Admits it? But why does he content himself with admitting it? Does he not regard it as a gross violation of duty? Does he not think it an alarming thing, that the Postmaster-General should borrow half a million of dollars, in order to cover up the deficiencies of the department, and that he should keep this loan concealed, for years, from the knowledge of Congress? As the head of a committee charged to inquire into abuses, and this enormous abuse having been discovered, can the honorable member justify himself by simply saying he admits its existence? Has he no reproof, no word of censure for such a flagrant violation of law? Has he no disapprobation to express, no complaint to enter, in such tones as that the Administration shall hear them? No man denies the fact, and none undertakes to defend it. What then? Is the department still to go on in its career, and nothing done, any more than if nothing had been discovered? If there were nothing else in the whole report—if that charge stood alone—I cannot conceive how any man can doubt that the department ought to be immediately and thoroughly reformed. The country, if I mistake not, will call for such reformation. As to upholding the administration of the department, with such charges against it proved and admitted, it is more even than the spirit of party devotion can accomplish.

Again, Sir, the third resolution distinctly declares that a practice prevails, in the post-office, of granting contracts on bids which vary from the advertisements, and of altering contracts, after they are made and accepted—a practice which destroys all competition, and enables the department to give all contracts to favorites. Is this charge denied, or admitted? I have not heard the honorable member, the chairman, deny it. Does he acknowledge it to be true? If he does, why does he not tell us, in a plain and direct manner, that this, too, is an enormous abuse, and ought to be reformed? Is such a practice to pass without reprehension? While its existence is detected, discovered, and acknowledged, is there to be no rebuke of it?

There is, then, the sixth resolution, which declares, that extra allowances have been made to contractors, which are unreasonable and extravagant, and out of all proportion with the increase of service. Is this true?

The eleventh resolution alleges, in general terms, that the department is deeply in debt, and its affairs in disorder. I have heard no man deny this. None can deny it. The department is deeply in debt; its affairs are disordered, greatly disordered. These extra allowances appear to have lost their original character. Instead of

being extraordinary, they have become ordinary. Contractors calculate upon them. The probability of an extra enters into their motives, when they make bids. Indeed, it seems of very little importance what bids they make. They are, in fact, paid just what sums the Postmaster-General sees fit to pay; and they are generally very well satisfied. From the frequency and the amount of these extras, the constant changing of contracts, it is quite evident that all fair competition among contractors is done away.

Mr. President, the country is awakened to these abuses in the post-office, and it will not be, and ought not to be, satisfied without a thorough examination, and an honest and real reform. I give my hearty thanks to the committee for their zeal and industry. They have had a laborious winter, and are likely to have a laborious summer. Let them go on fearlessly, and the country will appreciate their services.

Let them explore all the sources of corrupt patronage; let them bring all abuses into the broad light of day. Let them inquire into the number of removals of postmasters, with the alleged causes of such removals. Let them inquire at whose bidding honest and faithful men have been removed, to make way for partisans. Let them ascertain whether it be true that persons here may go into the post-office, and require the removal of postmasters by dozens; and whether the Postmaster-General, as matter of course, complies with such requisitions.

Mr. President, it is due to the committee—it is due to the Senate itself—it is due to this highly important subject, that we should express an opinion on some of the leading resolutions reported by the committee. If some are more doubtful than the rest, or require further examination, let them remain for further consideration. But on the plain, acknowledged, notorious cases, let us come to a vote. Let us show the country that we are in earnest. Let us begin with the first, with that which respects the borrowing of the money from banks, without authority of law, or even the knowledge of Congress; and let us see whether any one individual member of the Senate is prepared to withhold from that proceeding his vote of censure.

[Mr. Benton thought the Senate ought to defer, for the present, taking a vote on the resolutions. He said he had had no opportunity of carefully examining the reports, and therefore knew but little of their contents. However, he must say, that he had found things in them at which he had felt much mortified.]

Mr. Webster thought the best course, which was called for by the importance of the subject, and what was due as well to the committee as the Senate, was this—to take a vote on the first resolution. He would then move to lay the others upon the table,

until such time as gentlemen had an opportunity of examining them, when he would move that they be taken up.

The question was then taken on agreeing to the first resolution reported by the post-office committee, in the following words:—

"*Resolved*, That it is proved, and admitted, that large sums of money have been borrowed at different banks by the Postmaster-General, in order to make up the deficiency in the means of carrying on the business of the Post-Office Department, without authority given by any law of Congress; and that, as Congress alone possesses the power to borrow money on the credit of the United States, all such contracts for loans by the Postmaster-General are illegal and void."

And the question on agreeing to this resolution was decided unanimously in the affirmative.

REMARKS

IN THE SENATE OF THE UNITED STATES, IN RELATION TO STEAM-BOATS, DECEMBER 19, 1833.

In the Senate, on Thursday, December 19th, 1833, the following resolution relating to steam-boats, and other vessels propelled by steam, offered by Mr. WEBSTER, was taken up for consideration:—

"*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of passing a law for preventing, as far as may be, accidents to vessels employed on the foreign or coastwise commerce of the United States, from explosion by steam."

MR. WEBSTER addressed the Senate. It was, he believed, the general expectation of the country, that Congress would take up the subject to which this resolution referred. The history of the last two or three years (said he) exhibits a vast amount of property, and a startling list of human lives, lost by the explosion of the boilers and flues of steam-boats. These frequent occurrences have occasioned the existence of so much fear and terror, as to be a serious diminution of the convenience and comfort of that mode of conveyance. At present, the whole subject is without any regulation whatever, by public authority; and no authority but that of Congress seems competent to establish proper regulations. Of the power of Congress there can be no doubt. Steam-boats are, generally, licensed vessels, and they engage extensively in the coastwise commerce of the country. They may be registered vessels also, and may engage in its foreign commerce. On the same ground that laws of Congress regulate the number of passengers in merchant vessels, and make it necessary that such vessels should have medicine-chests, for the preservation of the lives and health of persons on board, with divers other provisions, for the same or similar objects, it is plainly in the power of Congress to adopt any regulations for the government of steam-vessels, which security to life and property may appear to require. It is with Congress to make these regulations, or they cannot be effectually made at all.

It is the general opinion, I believe, not only of practical engineers, but of the public also, that nearly all these accidents have arisen from negligence; and some of them from a very highly

criminal degree of negligence. Indeed, it may be well doubted whether a still more positive criminal offence has not, in some instances, occasioned the disaster. Steam-boat racing, for example —a practice by which the lives of hundreds of persons are put into imminent danger, without the slightest knowledge, on their part, of the existence of any such cause of danger—is such a wanton, intentional, and reckless exposure of human life, as that it may well be regarded as a higher offence than even extreme negligence. But negligence itself is criminal, highly criminal, where such effects to life and property follow from it. Those who carry passengers for hire, by means of such a mighty agent as steam—an agent so useful and powerful, when kept under proper management, and so destructive when it is allowed to overcome its just restraints—are bound in duty, and should be bound by law, to apply to their business the strictest attention and the utmost degree of diligence.

I am not prepared to say, definitely, what legal provisions it may be proper to adopt. It will be the business of the committee to consider and arrange such provisions. They will have the benefit of the legislation of other countries on the same subject, and may readily command the assistance of whatever skill and experience our own country affords, in aid of their labors.

Some general ideas upon the proper remedy, however, have occurred to me, which I will suggest for consideration.

The law, as it seems to me, might be of a two-fold character. It might prescribe certain regulations, the violation of which, whether accidents happened in consequence or not, should incur a penalty; and it might further provide, that, in case of accident, although all prescribed regulations should have been previously complied with, yet, if the accident happened from culpable negligence at the moment, that negligence should be severely punished. As to previous and prescribed regulations, the first and most important, doubtless, should be, that every boiler, intended for a steam-boat, should be tried and proved by some public authority, and restrained, in its future use, to one third, or, at most, one half, the degree of pressure or tension which it should have been proved to be capable of bearing. A safety-valve, out of the reach of the firemen, a proper apparatus to show at all times the level of the water, and also the intensity or height of the steam, and this apparatus so arranged as that its indications may be seen from without, are among the preventive remedies to which the attention of the committee will probably be called.

But I look with more confidence of beneficial results from certain other provisions, which I trust will receive the consideration of the committee. Fully believing that these accidents generally result from negligence, at the time, by those who have the charge of the engine, penalties, I think, ought to be enacted against such

negligence, and legal means provided, by which, when lives are lost by such occurrences, an immediate inquisition, investigation, and trial, should be secured, and the culpable negligence, if there be such, adequately punished. And, in the first place, I think the boat itself should be made subject to forfeiture, whenever lives are lost through the negligence of those conducting it. There is nothing unreasonable in this; analogous provisions exist in other cases. The master of a merchant ship, for instance, may forfeit the ship by a violation of law, however innocent the owners may be; even though that law be only a common regulation of trade and customs. There is, at least, quite as much reason for saying that whoever builds or buys a steam-boat, and proposes to carry passengers therein for hire, shall be answerable to the amount of the value of the boat, for the sobriety, diligence, and attention, of those whom he appoints his agents to navigate it, as there is, in revenue cases, to impose such liability for smuggling, or illegal landing of goods. To enforce this liability, I should propose, that whenever an explosion takes place, causing the loss of the lives of passengers, the boat should be immediately seized by the collector of the district, and the persons navigating her detained for examination; a trial should be had, and, unless it should appear, on such trial, that all legal requirements had been previously complied with, and were observed, at the time, and, further, that the accident was one which no degree of attention could have foreseen or prevented, the boat should be forfeited, and the persons having charge at the time should be punished. It is no unreasonable hardship, in such cases, to throw the burden of proof on those who are intrusted with the navigation and management of the boat. They should be able to make out a clear case of actual attention, skill, and vigilance, or else forfeiture ought to follow. It is a very high trust to have charge of that which is so potent to destroy life, and which, when negligently treated, is so likely to destroy it. Of course, all unnecessary delay, expense, or trouble, should be avoided. The property seized might be restored, on bonds, as in other cases of seizure, pending preparation and trial; and every indulgence allowed, in the forms and modes of proceeding, compatible with the great end of an immediate investigation and a prompt decision.

It is evident, that, for many reasons, a judicial investigation will seldom be had, in these cases, unless it be instituted by public authority; and I do not think any provisions will be adequate, which do not secure such investigation, whenever the loss of life happens.

As to steam-boat racing, it is an enormity that demands no tolerance. Doubtless, the committee will see the propriety of providing that all such racing, on any wager, or for any stakes, whether

it be between boat and boat, both, or either, having passengers on board, or whether the wager be on any boat, with passengers on board, running against time, shall be punished with forfeiture of the boat, and severe personal penalties on those concerned; whether any accident happen from such racing or not.

This, Sir, is a rough sketch of those enactments, which, I think, may deserve the consideration of the committee. Others, and perhaps better than these, will doubtless occur to the members of the committee. I have the fullest confidence that it is in the power of Congress to put an end, in a very great degree, to these disastrous occurrences. I believe that a wise and efficient law, such as may be easily framed and put in practice, would prevent three fourths of them. At any rate, I trust we shall meet the public expectation, and try the experiment.

There are, Sir, one or two other subjects, belonging to the safe navigation of steam-boats, though not immediately connected with the explosion of steam, which the committee will probably think worthy of attention. The first is, the collision of these vessels. It has happened more than once, that steam-boats have run foul of each other, not by means of darkness, or fog, but simply because the one did not know on which side the other meant to pass. Something like a law of the road, by which each should know on which hand to keep her course, with the obligation of being well lighted at night, would probably prevent some of these occurrences.

The other subject is the carrying gunpowder, in large quantities, in boats having passengers. As there are boats used exclusively for freight, there can hardly be a necessity of transporting gunpowder in passenger boats. This transportation in such boats augments the danger, and, when known, still more augments the terror of the passengers. And it is probably in consequence of this, and because some captains, on that account, are not willing to receive gunpowder on board, that the article is sometimes shipped in disguise, the boxes being marked as containing other goods. This highly objectionable and criminal practice ought to be severely punished.

SPEECH

DELIVERED AT A PUBLIC DINNER IN SALEM, MASS., AUGUST 7, 1834.

The Whigs of Salem and its vicinity gave a public dinner, on Thursday, August 7th, to the Hon. Daniel Webster, and the Hon. Nathaniel Silsbee, the Senators in Congress from Massachusetts. The Hon. Judge White presided. The table was graced with the presence of many of our most distinguished citizens. When the toast complimentary to the Senate of the United States, was announced, Mr. Webster rose and spoke as follows:—

Respected Fellow-Citizens: My honorable and worthy colleague has preceded me, as was his right and place, in expressing to you his sense and my own of the great honor conferred upon us by this assembly. It is not to be doubted, fellow-citizens, as he has properly and truly stated, that next to the consciousness of an honest endeavor to serve those whose servants we are, is the high satisfaction of receiving at their hands proof that they think our efforts have been well intended. Gentlemen, with a heart full of grateful acknowledgments for all the kindness which has been expressed towards us, permit me to say that I know you mean by this meeting—by this congregation of citizens—to express your approbation, not only of *our* endeavors, but also of those of the patriotic citizens composing the majority of the Senate, with whom we have acted. Those distinguished men, now gone to their homes in every State of New England—in most of the Middle, Southern, and Western States—will feel the same pleasure that we feel, when they, too, shall hear that their efforts to stay the tide of misgovernment have found support in the just, intelligent, and patriotic population of the county of Essex. But, Gentlemen, in all governments truly republican, *men* are nothing—*principle* is every thing; and I know that not men, but principle, not individuals, but the great cause of civil liberty, has brought you here today; I know that the country, and not the servants of the country, has drawn together the assembly by which I am surrounded. It is with the cause to be pleaded, and not with its impotent pleaders, that you have to do.

Fellow-citizens, you are assembled under a name that, for a century and a half, has designated the lovers of civil liberty; under a

name which, borne aloft, has carried terror and dismay to the bosoms of despots, from the time of the Stuarts down to the present period. And how is it—by what magic or miracle is it—that, within the short space of three months, the appellation of Whig has spread over our country from the East to the West, and from the North to the South, embracing in its denomination all lovers of Constitutional liberty? How is it to be accounted for, but by the fact, that there is something in the state of the case—something in the condition of the country, and in the purposes of the Government on the one hand, and something in the determination and spirit of the people on the other hand—that makes the name "Whig" applicable; that makes the name correctly characteristic of things as they are, and that makes its opposite appropriate and descriptive of men as they are? Gentlemen, it is as certain that the appellations of Whig and Tory do not circulate in the political hemisphere without adequate cause, as that the lightning is not found in the clouds without electricity. And, now, what is the question which has given rise to the renewal of these distinctive names? It can be no subordinate question; no temporary measure; no question of mere political expediency, that has had this effect: such questions arise; men take different views of them, express their sentiments; a decision takes place, and the matter passes away forever. It must be some question which takes hold of the Constitution, which is dear to the hearts of the people; some question connected with that liberty which the people of the United States have intelligence enough to know is the source of all the blessings they enjoy. What is the question, then? It is the question of resistance or non-resistance to Executive power. The *Whigs* go for resistance; the *Tories*, following the principle of their predecessors, go for non-resistance. And this is the distinction. If, however, we may believe the oracles of the Tories, the whole is a question of *Bank!*—of the Bank!—an institution of yesterday, and that expires to-morrow! Why, Gentlemen, it would not become me to tell you that this is not the question. You know it is not. You know too well that the question lies deeper.

It has happened that the Bank has been the object upon which Executive power has been attempted to be exercised; and who does not know that, in all cases in which similar attempts have been made, an object has been invariably chosen which was odious, or might be made odious, to the people. Despotism is sharp-sighted; and whenever it commences its career of usurpation, it makes choice of something—its first transgression will be against some institution which cannot command the sympathies of the people. It is our duty, then, to watch the *principle* of the movement, and not to look at the merit or demerit of the object against which power is directed. Allow me to recur here to the rise of this great

question. The Chief Magistrate was reëlected under circumstances of a very imposing character. Although it may be true that he did not receive a majority of the votes of the whole people, yet, considering the complex manner in which the votes were taken —the great States voting by States, and the majority reckoned by States—I repeat, that the majority he had was very imposing. It seemed to say that it was the will of the people that this individual should still continue to be President of the United States: although some of us looked in a different direction, yet we felt ourselves bound to submit to this decision of the people. We did submit. And I can answer for myself and the other representatives of this State, that nothing was further from our wishes than to be obliged to enter into a course of opposition. Events occurred during the session before last—a great crisis arrived—in which we thought it our duty to support the Executive, to maintain inviolate the law, and to uphold the just power of the Government. We did support him without hesitation, and by our numbers, if by nothing else, we did so with some effect. Affairs, however, afterwards took a different direction, and we also felt it to be our duty subsequently to take a different course. This time twelve months the country was in a high state of prosperity, and in this part of it there was assuredly no desire unnecessarily to oppose the Administration. The President had just been among us: he had received the strongest marks of regard, and had been treated as the Chief Magistrate of the United States might expect to be treated. He went back, and, in September last, took the resolution to interfere with the treasury of the country. Foreseeing this event, from the tone of an official newspaper at the seat of Government, I ventured, as an individual of the community, to utter my voice, beforehand, against any such attempt upon the money of the people. One of the last acts of the House of Representatives had been to express their satisfaction and confidence in the Bank of the United States—two thirds of the House had voted thus; the sentiments of the Senate were as well known upon the subject as if they had been similarly expressed; and yet, ten days after the rising of Congress, intimation was given of the President's intention to remove the deposits. At that time, I was so connected with public men and measures, that I did not deem it unfitting for me to express my sentiments in relation to this matter. I did so. In September last, however, the act was done—the deed was consummated—the President, by his own authority, by displacing a Constitutional officer, who refused to do his bidding, and appointing another and more pliant instrument—removed the public treasures from a place assigned them by law, and placed them in the banks chosen by himself, and completely under his own control. This is but one out of a series of acts, which evince the disposition of the Exec-

utive to encroach upon the Legislative Department of the Government.

It is now (continued Mr. Webster) two years since I have addressed any assembly of Massachusetts citizens upon political subjects. The last occasion was at Worcester; and I said then, what I now repeat, viz. that the general course of the Executive has been, 1st, to derogate from the powers of Congress and the common Government; and this on pretence of State right: 2dly, in relation to the powers admitted to be in the Government, to take to himself the lion's part. The early papers of the Administration prove this to be the case: the veto messages, &c. all go to curtail the powers of Congress. In this latter particular, the President has pursued a course different from that of any of his predecessors, from the time of Washington until the present moment. The power of negativing the laws is a power which does exist in the Executive, but which is only to be exercised on extraordinary occasions. If we go back to the framers of the Constitution, we shall find that the chief object of the *veto* was to secure the Executive from any encroachment on the part of the Legislative Department of the Government: it was to protect the President and his own rights; but it was never intended that the *veto* should admit the Executive to a full participation in the ordinary business of the Legislature, and with power to put an end to the proceedings of both Houses of Congress. This would be an *absolute* power; for what President, with a party at his heels, would be unable to obtain one third of one of the legislative branches—and one third would be sufficient for his purpose—to enable him to arrest the progress of legislation. This *veto* power has been so frequently employed of late as to exceed, in the occasions of its exercise, the whole previous history of the Government. [Mr. Webster here alluded to the other (the negative) power of veto possessed by the Executive, in withholding the expression of his assent or dissent from bills until the time for acting upon them had past.] There had been but one instance (Mr. W. said) of this negative description of veto during the last session, and that was in the case of the bills for clearing the navigation of the Hudson and Wabash rivers: of these two bills "one had been taken, and the other left;" but he had never been able to ascertain the reason for the preference evinced, excepting, indeed, that the waters of the Hudson were a little salt, while those of the Wabash were entirely fresh. But the most remarkable instance of actual Executive encroachment was to be found in the power claimed by the President of removal from office. The Constitution said nothing about removal from office. It was true that, at an early period of the Government, it had been decided that the President might make a vacancy, in case of absolute necessity; but so far was the Executive from

having the power of dismissing an officer at his pleasure, that Mr. Madison, one of the most able expounders of the Constitution, had declared that any President who should remove a worthy man from office upon mere party motives, would be liable to impeachment. Necessity, absolute necessity alone (as in the case of insanity, &c. on the part of an incumbent), or at least some substantial and reasonable ground of objection, could justify the exercise of the power of removal on the part of the President of the United States. But what did they now see? An extraordinary power made an ordinary power. They saw the "extreme medicine of the Constitution made its daily bread." Yes! it did seem to be the "daily bread" of the Administration to remove from office competent and worthy men, and to fill the vacancies with friends and creatures of their own. This system was commenced even before the present individual who filled the Executive chair had taken the oath of office. During the last year of the administration of Mr. Adams, when offices became vacant, the friends of Andrew Jackson, constituting at that time a majority in the Senate, decided, by a vote, that those offices should remain open until his election had taken place, so that they could be filled by individuals of his nomination. This was done, and thus judges of the Supreme and District Courts, marshals, district attorneys, &c., were all left to the choice of the new President, who possessed, in this way, not only the patronage of the Government for his own term, but that of the last year of his predecessor. It was this power of removal, without any other pretext but that of party will and pleasure, that was changing the whole character of our Government. There were honest men in the Senate who said that the thing could not be altered; who asked, "What could they do?" We told them that we could reject nominations. We knew that we must make a stand somewhere, and we made it here, and continue to occupy the ground we then took till this day. The Senate was not, however, strong enough at that time; the President had come into office backed with unexampled popularity, and we were borne down, outvoted, and overwhelmed; men who *thought* well at that time, did not *dare* well. The power of removal, then, connected with the exercise of the *veto* power, was the first step in the march of Executive encroachment: next, in September last, came the still more alarming (and more fortunate because more alarming) act of the removal of the deposits. The law said that the public money should be placed in the United States Bank, and gave to the Secretary alone the power of removal, in cases and for reasons connected with the public interest. The House of Representatives had voted that the deposits were safe, that they should remain in the Bank; and there they did remain until the eve of the next session; when, by an act said to be his, boasted of as his, and declared by

himself to be his, the public treasures were by the President taken out of the custody of the law, and placed in banks chosen by himself and his Secretary. And now it is pretended that this is all a question between the Bank and the Executive, between the Executive as the source of all good, and the Bank as the source of all evil. The Bank happened to be the subject upon which Executive power was exercised; it, therefore, necessarily came into the argument; but it was not the rights of the Bank, the interest of the Bank, nor the liberty of the Bank, that constituted the main question before the country: the real question at issue was the liberties of the people. If the people, by the voice of their representatives, could not say, where their money was safe and where it should be kept, they had no control over it: if they could not choose one place for it, they could not choose another. If the people were to choose a place at all, he (Mr. Webster) supposed they might choose their own place; although it was certain that the Bank, by paying a valuable consideration, had entitled itself to hold the public money, and that any infringement on the rights of the Bank in this particular would be a violation of contracts, which ought not to be acquiesced in. That man, too, greatly mistook the people of the United States and of Massachusetts, who supposed that a question of right was to be decided by the degree of favor with which they regarded the party claiming that right. They, of the Senate, had not connected favor of the Bank with this question; they did not defend the Bank; the Bank might have acted right, or it might have acted wrong: if the latter, however, there was the tribunal; let it have its trial. But the question was not one of Bank, and the attempt to hold up the Administration as the fountain of light on the one hand, and to cry "Monster" against the Bank, on the other, would not succeed. The Senate thought fit, for reasons which it has laid before the country, to express its disapprobation of the removal of the public deposits, to say that there was no cause for such removal, and that the President, in effecting a removal, had transcended his Constitutional powers. This unwary, rash and improper conduct of the Senate called down on the members of that body the—*Protest!!*—that Protest, which was meant to teach them, not only the extent of their past transgressions, but the extent of future obedience, by which alone they could hope for forgiveness. It was a homily on the extent of Executive power—a sort of creed. It appeared to tend but to one result; and that was, that all powers, which, in the widest range of Executive definition, could be called Executive powers, were to be placed in the hands of one man; that all officers, whose duties were prescribed by the Constitution, and whom the Constitution and laws made amenable to impeachment for maladministration, were but so many puppets to be moved by one

supreme Executive head, and to perform those duties which the Executive himself could not perform. He (Mr. W.) did say, as a lawyer, that the whole theory of the Protest was built on this foundation; and that there was not one power belonging to the customs, army, navy, treasury, &c., which was not, according to the Protest, an Executive power, and to be exercised according to Executive will. He (Mr. W.) had said that the one great elementary principle which characterized the present Administration was a desire to extend Executive power. There was, however, another principle connected with this first one, and which formed its chief support: it was this—that all offices were the just rewards of the successful party, and that he who got office, got it for himself, to the utter disregard of the people or the country. It was this principle of reliance on party, that enabled the Administration to rear up paid troops—mercenaries—every man marked—some with a *button*, but most with a *collar*—men upon whom they could reckon with certainty; and he (Mr. W.) believed that the expectations of those who hoped to carry the President through were founded solely and entirely on their confidence in the discipline, activity, the tactics, and obedience, of this *corps*. He would ask if there was any thing like argument on the other side. Did the advocates of the Administration come out into the field and meet discussion? Were they ever seen coming out to discuss their principles? Were they not found calculating upon the post-office, the custom-house, and the paid and disciplined troops that they had every where? These latter were the sort of persons who were to go to the polls and vote down the arguments of the Whigs. It appeared to him that the same thing was desired to be effected with the people and the people's friends as was to be effected with the coin of the country: that was, they were not to be *weighed*, but to go by *tale*. It was desired to have the people stamped, so that, when a man showed his forehead, he would also show Cæsar's image and superscription. It would be observed that this power of removal claimed by the President, having a check in the Senate, an attempt had been made against the Senate in that particular. It had been the custom of the Government, hitherto, in the event of any vacancies occurring during the recess of Congress, and being filled by the President, to submit such nominations for the approbation of the Senate, at an early day after the commencement of the next session. But what course had been pursued by the present Administration? For more than twelve months, important offices had been filled without the consent of the Senate. [Mr. Webster here instanced the cases of Messrs. M'Lane, Duane, and Taney.] So that here was the key of the treasury (he did not know whether there was any thing in it) held for more than twelve months by an officer whose nomination had not been confirmed by the Senate.

The means of exercising that patronage of Government to which he (Mr. W.) had alluded—the power of the office-holders—much as had been said upon the subject, were still, he conscientiously believed, greatly underrated. In times of prosperity—when every member of the community was profitably employed in his own concerns—men got into office who were wholly dependent on the income of office; and it was one of the great evils of the times, that, whatever other manufactures were discouraged, the Government manufactory of public opinion at Washington still went on. It was from these causes—from the patronage of office—from a subsidized press, and from the support thus procured from the people, that the greatest danger to the institutions of the country was to be apprehended. There was the custom-house—a great power, with the most extensive influence—and he was glad to say that the proscribed Senate had determined to look into that matter. His colleague stood pledged to bring in a measure at the next Congress which should restrain and limit this department, and take away all unjust profits, from the collector down to the tide-waiter. In the post-office they had but just raised the veil—nobody had as yet looked into the dark recesses of the department; but they had seen enough to know that it ought to be inquired into. He did not wish to influence the minds of those who heard him, but he believed that the extent to which money influence had been actually used in the purchase of political partisans was yet but half exposed.

The same state of things prevailed in the Indian Department, through the medium of agencies and reservations to favored individuals. This was a subject which was little known, however, to the Northern and Middle States; information respecting it being confined to a few gentlemen of the South and West. The press, too,—that great light of human liberty—that invaluable boon to civilized man,—that, like every other dear and valued blessing, might be, and had been corrupted. The Government had power over the press, and it had used it without scruple. And what would be the result of all this? Allowing the President his *veto* power, the power of removal and appointment, the keeping of the public treasures, from the time of their collection till the passing of an appropriation bill by Congress, the administration of the post-office; add to all these means of influencing public opinion the influence which he naturally possessed as the Chief Magistrate of the country, and let him (Mr. W.) ask if there was not reason for the Senate to raise an alarm that public liberty was in danger? If they had raised a *false* cry, there was no harm done; they had risked their own honor, character, and reputation, in the course they had adopted, and if, when they said there was danger there was no danger, let the consequences fall on them. They were individuals—public men to-day, and to-morrow mingling again in

the ranks of their fellow-citizens; if, therefore, he repeated, they had spread a causeless alarm—be the result visited upon their own heads. But if they saw, or *thought* they saw, Executive power advancing with rapid strides to despotism—trampling upon the laws and Constitution of the country, and threatening destruction to the dearly-bought freedom bequeathed to them by their fathers—if they saw this, and had not cried aloud, what would they have been but traitors—slaves themselves, and fit instruments to make slaves of others? It was with regret that he adverted to another circumstance—to the extraordinary phenomenon of a popular branch of the Legislature, the immediate representatives of the people, yielding to, nay, supporting, the encroachments of Executive ambition. What did not this prove in relation to the power of party and the idolatry for man, with which human nature was sometimes afflicted? No consciousness that they were disobeying their constituents had been able to divert them from supporting Executive usurpation. Only on the ground of party was their conduct attempted to be justified. One man had been seen receiving directions from his constituents, and refusing to obey them, because he did not find a majority of the names of those who had voted for him at his election appended to the instructions which had been sent to him. When his respectable constituents came to him by thousands, his answer was, "I do not see a majority of the names of my party."

It was cheering, though (continued Mr. W.), on an occasion like this, to be able to hope that a period was coming when the people would take the management of their affairs into their own hands. Liberty was no longer in danger in this country when the danger was perceived. He hoped the people would examine for themselves; for one, he asked nothing else. He wished not to force upon them any dogmas or catechism of his own, but he felt it his duty to beseech those whose servant he was, to look into the conduct of Government and decide for themselves. He and his colleagues were transient, and would speedily pass away, leaving nothing behind them but the remembrance of the good or evil they had done. In a moment of danger, however, such as they believed this to be, there was one course in which they could not err; and that was, in calling upon the people to arouse themselves —to look around them, and if there was danger, TO WORK OUT THEIR OWN SALVATION. He need not tell them that, in his judgment, the present was a time for reflection, for wise and firm resolution, and determined action. They could not rescue the country—could not raise it above party—could not raise up the people's party—without vigorous action. He formed but a poor conception of the present crisis who did not perceive the necessity of union among those men who had the same purposes to accom-

plish. He (Mr. W.) knew that there were many subordinate points to be considered; but if those points did not concern and touch the Constitution, let them remain for the present unheeded. If they found the ship among the breakers, surrounded with black rocks which threatened her with ruin and destruction, was it not their duty to forget for a time all minor matters and perform ship's duty? It was in vain to talk of a crisis, to enlarge upon the danger of the country, if they would not go, one and all, to the country's deliverance. They were entirely in their own power in this matter, and he hoped that the necessary exertions would be used.

He wished to say a word to the young Whigs of Salem. There were those in the present assembly who were Whigs in '75; who were Whigs at Bunker's Hill on the glorious 17th of June; who were called from their beds by the fire of the first platoon on the 19th of April. But they were few in number. There were those present, too, who remembered the difficulties which were to be contended with at the commencement of this Government. Those also were few. Some there were, also, who had had something to do with the Government of the present day. But these were all passing to their forefathers. It is to the youthful Whigs (said Mr. Webster), the legitimate possessors of the fair and glorious inheritance bequeathed to us by our ancestors—it is to them we look, to maintain in its purity, and transmit, inviolate, that inheritance to posterity. And what is it—this rich and glorious inheritance?—the purchase of so much toil and so much blood—that has come down to us from the great men of past generations, and which I now commend to the affectionate care and valiant defence of the young men of our time? What is it? It is difficult to comprehend the magnitude of its value,—or to state truly the political blessings which it confers upon us. It is difficult to take a view of the aspect which our country presents to the civilized world. The Constitution of the United States—our free institutions—are these things of course? are these the common blessings of Providence to all lands, and are they felt by all people? No! All that makes us great, and happy, and renowned, is peculiar to us.

Where else will you look for regulated liberty? where else see the benefits enjoyed by us springing from a government composed directly of the people, and proving, by the experience of half a century, such a government to be practicable? And this Constitution—these institutions—gazed at with admiration and delight by every lover of liberty; prayed for and held up as an exemplar—a model—by every advocate of freedom throughout the civilized world—are these treasures to be treated with indifference? Founded on the great principles of self-government; on the ground of the ability of the people to govern themselves—by agents chosen im-

mediately from themselves—raising the whole community, but raising none above the community—proving that the people *can* govern themselves, and not rendering it necessary for them to look for angels to govern them—is this a system to be slighted, or to be otherwise than zealously and carefully guarded?

After a very few additional remarks, Mr. Webster concluded by offering the following sentiment:—

"THE WHIGS OF SALEM AND ITS VICINITY—THEIR CAUSE IS THE CAUSE OF THEIR COUNTRY; IF IT FAIL, THEY ARE NOT THE ONLY SUFFERERS."

SPEECH

AT CONCORD, NEW HAMPSHIRE, SEPTEMBER 30, 1834.

At a public dinner at Concord, New Hampshire, given to Hon. Samuel Bell, a Senator in Congress from that State, Mr. Webster, with several distinguished gentlemen from other States, was present, by invitation. The health of Mr. W. being proposed and drunk, he addressed the meeting as follows:—

Gentlemen: It becomes me at least to acknowledge the great honor conferred on me by an invitation to be present upon this occasion, and by the kind manner in which the sentiment just given has been received. When I survey the individuals composing this assembly, so many of whom I know; when I see men of advanced life, whom from infancy I have been taught to revere, who have filled the seats of justice, who have held the high places in the State, and have acted with credit in the councils of the Union; when I see gentlemen from parts so remote, and gentlemen of all pursuits and professions; when I see so large an assemblage of the substantial farmers of the State,—I cannot but think that there is something connected with the occasion which proves the existence of danger, and which creates apprehension for the safety of our rights and laws. It is my first grateful duty, upon this occasion, to join with you in the tribute of respect tendered to your worthy Senator now present—my highly valued and cherished friend. I cannot, like you, offer this tribute as one of his constituents, but I come forward gladly in the character of a witness, to bear conscientious and ready testimony to the able manner in which he has supported the interests and credit of his State. His presence imposes on me forbearance, as to much that my heart dictates; but I will venture to say, that there is no candid man in the State, who can surmise any motive by which he has been governed, other than a desire Constitutionally to discharge his duty, and to merit the approbation of his fellow-citizens. Drawing towards the close of his second term of service in the Senate, what would have better suited him than to have floated along the stream with power—to have gone with majorities—to have found an easy and beaten turnpike road along which to travel towards the close of his career? What motive but a patriotic

one (considering the state of feeling in his own State) could have induced him to breast the current which beset him, and resolve to stand or fall with the Constitution—desiring, as he had lived under its benefits, to partake its fate? Having said thus much of another, it becomes my next duty to thank you for the invitation to be present with you here, and for the kind manner in which I have been received. You do me honor in calling me a native of this State. I feel the strength of that tie; I feel that it connects me with thousands of patriotic hearts within the limits of New Hampshire; and if you do not discard this connection, permit me to assure you, that I shall never do so until the day of my death. I will presume to say a few words more in relation to myself. It is now eighteen years since I left this State, to pursue the arduous duties of my profession in the metropolis of the neighboring commonwealth, with no expectation of being called again into the public service of the country. [Mr. Webster here again apologized for speaking of himself, and continued.] But I may take notice of what must have been obvious to you all, viz. that it has been my fortune, whether in public life or out of it, to be pursued by a degree of reproach and accusation in my native State, such as, I believe, has never before followed an individual so humble as myself. Incessant pains have been taken to misrepresent my conduct and principles, to render my character odious and repulsive, to alienate from me the feelings of the citizens of New Hampshire, and to hold me up as an object of jealousy and enmity. Certainly I have felt the injustice of these calumnies—certainly I have regretted them, because they have been long continued, and have operated upon those who had no means of ascertaining their truth or falsehood—upon a new generation, who, I have been well aware, would grow up under the influence of a sentiment of enmity towards me, produced by this continued course of wanton and malicious abuse.

I should have been unworthy, however, of the esteem which you manifest to-day, had I suffered this or any other injury to weaken that feeling of affection which I cherish for my native State, and which no wrong, no calumny, no holding me up to odium and reproach, can ever eradicate from the fibres of my heart. I have trusted to time—to the influence of truth—to returning sense of justice—to the general intelligence and generous feeling of my fellow-citizens, to do me right in the end. I shall continue so to trust, and wait the result with perfect resignation. But, in the existing state of the country, I repeat what I have said elsewhere, that men are nothing—the country every thing. The preservation of the Constitution and the laws—it is to that that I would attract the attention of this and every other assembly. What occasions this meeting—what has brought the Whigs of New

Hampshire, from the East and the West, from the North and the South, to take counsel together? Is it a real or fictitious danger? Is it the result of political fanaticism—of a disposition to revolt against the constituted authorities? or is it because men have come to the conviction that circumstances and a time have arisen, showing that some extraordinary effort of the people themselves, some patriotic feeling of the old revolutionary spirit, is necessary for the rescue of public liberty? I believe the latter. I believe the country is in danger. I believe the danger is real, urgent, pressing. I believe if the ancient revolutionary heroes of New Hampshire—Langdon, Whipple, Bartlett, Gilman, Sullivan, Poor, Stark—were now in the land of the living, every man of them would be on our side. I rejoice to see so many descendants of those illustrious Whigs here present, resolving to transmit to posterity not only their names and blood, but their principles also. From the formation of the Constitution, there has existed in New Hampshire much difference as to men and measures; but this has ever been accompanied by a general desire to maintain the Constitution, and a just balance of power between the Executive and Legislative Department; and I sincerely believe that if the great men to whom I have just alluded were still living, and in possession of their intellect and faculties, they would feel the great principles of the revolution to be attacked, and would declare that it was time for the people to rise for their own rescue. The time (said Mr. W.) will not now serve for a detailed discussion of the great questions which agitate the country. Whatever is minor in importance, or is mere matter of expediency, ought to be dispensed with. But that which assaults the principles of the revolution—that which lays hold of the foundation of the State—is entitled at all times to consideration. It is the temper of the times—it is the obvious and plain course of a great party in the United States—to sink country in party; and it is this raising of party, and raising one man for the benefit of party, that is leading us on to man-worship and to the danger of despotism. This system began from little, and has gone on from stage to stage. When the present Administration came into power, new and popular, it established the doctrine of universal removal from office. There were those who protested, argued, and voted, against such an abuse of power, year after year. But it was but one stage. "What doth it matter?" said some; "the country is not in danger." But then came the next stage, at which it was announced that he who held office, held it at the pleasure of the powers that be—at the pleasure of the person in whom the gift of office lay. Then the third stage, when it was boldly and fearlessly advanced, that any one who held office was not only subject to be removed, but that every officer was but a pen to record the decision of the individual who appointed him; thus leaving to the

officer no responsibility of his own. The patronage, the power of giving office, of granting contracts and facilities, the extension of pecuniary aid, are now the means of carrying on the Government; and, to our shame be it spoken (said Mr. W.), I do not believe there is a government on earth that executes its will so much by pecuniary means as that of the United States. The Custom-House, the Land-Office, the Indian, and the Post-Office Departments—I know not how many thousand persons are by these means influenced. If official individuals were independent—if they were suffered to exercise the common rights of citizens—if they were subject to no political servitude—if they wore no collar, paid no rent-service for the tenure of office, the case would be different; but if they hold office entirely at the will of the giver, what can be expected? Men subject to this influence are numerous, well paid, and, acting on a community engaged, like honest men, in their own concerns, are certain to effect their purpose in every part of the country.

And how has it happened that any part of this system has been developed—that any thing is known in relation to the post-office? Certainly not through the agency of the Government. At the last session of Congress, a Senator, from whom a letter had just been read (Mr. Sprague), proposed to the Senate to take the appointment of committees into their own hands: heretofore they had been appointed by an officer who was friendly to the Administration. The committees, thus differently appointed, went to work, and, having had time to examine into but one department, the country saw what they had already brought to light. Now, can it be said that we have no cause of blame? Look at the resolution introduced into the Senate at the close of the session in relation to the Post-Office Department. Not one man, thank God, was found so completely lost as to vote against that resolution. The Postmaster-General was charged with having violated the law; with having run the United States in debt, and with having kept the matter secret, session after session. The fact was proved—admitted—no one was found hardy enough to deny it. It is not to be said, then, that there is no foundation for alarm. It is not, however, the loss of the money, of which the people of the United States so much complain, but of the purposes for which it was applied. It is not because money is property that they are indignant at its loss; but when the money was used to purchase men, to buy the people, the people have certainly a right to complain. An effort was made through the post-office to control the press and govern the people by the use of their own dollars. Again, we think that the negative power of the President over the laws has been abused. We do not think that by the Constitution the President is justified in rejecting laws at his pleasure. The

power granted to the President in this respect was principally for the maintenance of his own rights, and to prevent the passing of any law which violated the Constitution. I do not recollect (said Mr. Webster) under other Administrations hardly more than a single instance in which this negative power has been exercised, excepting on the ground of Constitutional or legal right; under the present Administration, it had been exercised, however, by the President in relation to the land bill—a measure which had passed both Houses by strong majorities. The United States were proprietors of a domain from which they derived a large revenue—$50,000 or $60,000 of which would have fallen to the share of this State but for the interference of the Executive. There were two modes of disposing of the public lands—one, to sell them, and divide such part of the proceeds as was not wanted in the general treasury, among the States, according to the census; and the other, to give them away to all who chose to occupy them. There was no reason for the adoption of the latter course: the land was cheap, $1,25 per acre; settlements were not the least retarded by the price, and were going on very rapidly. It seemed, then, to the old States, that the revenue thus accruing might have been distributed among them, inasmuch as the custom-houses were enjoyed by the General Government, and the States driven to direct taxes and assizes; they had no other means of raising money for necessary uses. The exercise of this veto power was, then, another Executive abuse; but under this the Government might have existed. Other assumptions, however, had been made which struck at the very existence of our institutions. The chief of these assumptions was the seizure of the public treasury—a thing so abhorrent in principle, so obnoxious to every objection to Executive encroachment, as justly to awaken the indignation of every lover of the republic. The law had designated the place for the keeping of the public money, and the law was not repealed. Congress had been applied to, but had refused to remove it, declaring it to be safe—had decided that it should not be removed. Yet the Executive had seized upon it, and placed it in banks of his own choosing. This was an act so hostile to every principle of a popular government as to excite universal alarm. They had always been taught to believe that the public money was to be collected, kept and appropriated by Congress. But this subject opened (Mr. Webster said) a field too wide to be fully traversed. It would be easy, however, to show that the act of the Executive had produced great distress and pressure—pressure which would be renewed and repeated until the cause was removed; for did any man suppose that the people could acquiesce in the present state of things—could consent that the funds of the nation should be kept in a place unprovided by law,

and liable to the perpetual interference of the Administration? Eternal war against such a principle! if it could not be overthrown to-day, let it be attacked to-morrow, and year after year, until it *was* overthrown. While this struggle continued, however, confidence was weakened, prices, particularly the prices of labor, were depressed; and now let any man who pretended to love his country—for we were a nation of laborers, and the earnings of capital were but as a drop in a bucket, to the ocean, compared with those of labor—let any man say how this trifling with the prosperity of the farmers and laborers was to be justified. No sooner was the act done than the justifying reason was found in the Bank! The Bank was declared to be unconstitutional! One could not but inquire of those who raised such an outcry against the Bank, at what period they became the enemies of that institution—at what time they discovered it to be a "monster." The Bank, during Mr. Adams's Administration, was an independent institution. When the struggle on the succession of Mr. Adams took place, I ask if any of the friends of General Jackson complained of the Bank, or proposed its annihilation as a matter of reform. Did they say there was any danger to be apprehended from the Bank? Not a syllable! All that was said at that time may be found and referred to in the newspapers of the day. It never was asserted then that the Bank was unconstitutional—that it was a "monster." And there was good reason for this silence. The Bank had taken no part in politics; no one had been wicked enough to bring it into the political arena. It is as true as that our fathers fell at Bunker's Hill, at Lexington, and at Monmouth, that this outcry against the Bank was raised *because the Bank refused to be made a political agent!* It is true that the operation commenced with the Branch Bank in this State. It was tried to make that bank a political institution. Men here applied to the President to make the bank at Portsmouth a political bank. They wrote to the Secretary of the Treasury to do this. *These are facts*—made known to the world—not disputed. And this application to make the Portsmouth Branch Bank a political agent, was referred to the directors at Philadelphia, who unanimously agreed that it did not become them to meddle in politics. Their business was to serve the country on the terms of their charter; and they wrote to the Secretary of the Treasury that they would not change their agents on political grounds, because their institution had not been incorporated on political grounds. They said there was no man in their service who had been *appointed* on political grounds, and they would not *discharge* any man for his political opinions. They sought for business men, and had nothing to do with political motives. The moment that this letter got to Washington (said Mr. Webster) it was discovered that the Bank was a "monster" with

10,000 claws, and ought to be instantly destroyed. No man in the community could doubt that if the Bank had yielded to the demand of the Administration, had said, "O yes! we will turn out A., who is an enemy to the Government, and put in B., who is a friend; we will lend money to C., who is a proper man, and not to D., who is the reverse; witness our hand, and seals, &c."—no man can doubt that, if the Bank had done this, it would have been not only *not* a "monster," but the most amiable, harmless, useful creature that the law ever created! But, again, if the Bank be unconstitutional, when did it become so? In the first message of the President, it was said that a national bank was perfectly Constitutional, but that it should be differently constituted; that it should be founded on Government credit and Government revenue. This (said Mr. Webster) would have been an Administration bank, and, eventually, through the President's officer (the Secretary of the Treasury), the President's bank. The veto message of 1832 said that the President, constrained as he was to negative the Bank of the United States, would, had he been applied to, have given the plan of one. Not knowing (said Mr. Webster) the kind intentions of the President in this particular, we had not an opportunity of sending to him the necessary application. And now let him (Mr. Webster) ask, if, in this great controversy, all were to be driven to the question of "Bank or no Bank." We supposed the Bank to be convenient; we knew it to be so. We know that over the great number of State banks, having the power to issue money, the United States Bank exercised a salutary control: the experience of forty years had convinced us that it was useful; but beyond this we have nothing to do with it.

But a panacea has been discovered. The pressure of last winter had been removed, never more to return; there was to be no more fraudulent paper; even the safety banks might cease their operations; the golden age had returned; a new coin had come forth, which, deprived of the cap of liberty and the old motto, *E pluribus unum*, was in future to protect the country and restore it to all its former prosperity.

One must think very lightly of the intelligence of the community to believe that it could be thus deceived; and when the people heard of new eagles, clipped, it was true, of their wings, being shown as a sign of new and better times, we could not help asking if the people were so enslaved, so ignorant, as to be led astray by such paltry devices. You know (continued Mr. Webster) that most countries make but one of the precious metals the medium for the payment of debt. In our country, from the time of Hamilton, the standard has been twofold. We pay either in gold or silver. The law regulating this matter made one ounce of gold worth fifteen ounces of silver. This proportion has been found to be incorrect,

gold being found to be worth more than fifteen for one, as compared with silver. The consequence of this has been, that, as silver is a tender with us, and gold coin in England, our gold has gone to England, while the silver has remained with us. This being the case, and desiring to bring back gold again, the subject was brought before Congress in petitions from the merchants of Boston and New York: the latter accompanied their petition with a bill drawn by Mr. Gallatin to restore a just proportion between gold and silver. In the course of the last session (said Mr. Webster), we took up the matter, and were prepared to report upon the subject, but postponed our intention till the measure from the House came before us. The measure of the House was not accurate; its rate of proportion was not entirely exact; it went to the extreme, giving too much value to gold and too little to silver; nevertheless, it pleased the southern members, at this time most deeply interested in the gold question; and the bill was therefore passed. As far, then, as an influx of gold is concerned, that effect will be necessarily followed by the disappearance of dollars. Gold, having an undue value, will necessarily be kept in the country, and dollars will be remitted to pay all balances in trade. Gold will therefore be the only metallic medium, and that confined to the banks. In one respect, this will be injurious, as it will cause an increased circulation of one dollar bills, while, if silver had been retained, the circulation of small notes would have been proportionally arrested by the circulation of dollars.

(Apologizing to the meeting for this digression, Mr. Webster continued.) But it is the principles and authority asserted in the Protest which most truly alarm the people,—the right claimed by the President to negative and construe the laws, and to reject the construction of Congress and the courts,—the assumption that all officers are his, and that every act of an officer is his (the President's) act. If this be so, what becomes of impeachment? The Constitution says that any officer shall be liable to impeachment for malpractices. Impeach a man, however, under this doctrine, and he says, "Behold the rescript of the Emperor!" Impeachment in such a case would be idle. In short, though I do not wish to make extravagant statements, I venture to say, that, if we yield to the doctrines of the Protest, we shall live under an elective monarchy; elective as yet, but for information as to how long it will remain so, let us consult the page of history. I know little difference between the king of England and the President of the United States, if the assumptions of the Protest be submitted to. And how has this happened? What has brought about this state of things? What would have been done, if John Quincy Adams had acted thus? I put the question to you in regard to his predecessors, not excepting even Washington. I do not believe that

Washington, in the most palmy state of his administration, at the moment of his greatest popularity, would have been able to have maintained himself a single month, had he claimed the powers claimed by the present President in the Protest. Why are they then tolerated now even for a moment? There is but one reason; it is this—that there are those in the present generation who are *interested* to deceive, and those who, from culpable inattention to the concerns of their country, *suffer* themselves to be deceived. Power now maintains itself by the aid of the purchased, and the apathy of the deceived.

Every thing (said Mr. Webster) now turns upon personal confidence. If attempts be made to alarm the people, the reply is, "The hero can do no wrong." Tell them the Constitution is in danger, and his friends say, "It may be so, but he means no harm." Speak to them of the seizure of the treasury, and they will tell you "that if the President had not acted as he had done, the Bank would have corrupted the whole Legislature before the next session." He (Mr. Webster) thought this man-worship dangerous. It was not what our forefathers had taught us. Jefferson said he did not fight for an elective monarchy. But this was not the worst. Were we sure that these various usurpations of Executive power originated with the "hero"?—sure that the main spring was held by his hand—that he was the head of his own administration? or were we realizing the fears of the Roman Coriolanus before the gates of Antium? Was it not possible that the blows which they received proceeded "from boys with sticks and cooks from the kitchen with spits and ladles"? He (Mr. W.) would present the subject in another light. The present Administration would expire in three years. Let us suppose the accession of another military man, with the same popularity, to follow up, step by step, the pretensions of his predecessor. What would be the state of the country eight years hence? Could they say then that they governed themselves—that they made their own laws? He (Mr. Webster) put it to every man to say what must ensue if the present system were followed up. The country could bear every thing but the destruction of the Government—pressure—any thing. If its money was needed, let it flow like water for defence, but be frozen like ice if for tribute. It is not because it is money (said Mr. Webster) that we refuse to part with it, but because we know that if our opponents get our money, they get every thing; and if they do not get that, they get nothing. Yes (continued Mr. Webster), we can give up every thing but our Constitution, which is the sun of our system. As the natural sun dispels fogs, heats the air, and vivifies and illuminates the world, even so does the Constitution, in days of adversity and gloom, come out for our rescue and our enlightening. If the luminary which now sheds its light upon us, and invigorates our

sphere, should sink forever in his ocean bed; clouds, cold, and perpetual death, would environ us: and if we suffer our other sun, the Constitution, to be turned from us; if we reject or disregard its benefits; if *its* beams disappear but once in the west,—anarchy and chaos will have come again, and we shall grope out in darkness and despair the remainder of a miserable existence. I confess (said Mr. Webster) that, when I speak of the Constitution, I feel a burning zeal which prompts me to pour out my whole heart. What is the Constitution? It is the band which binds together twelve millions of brothers. What is its history?—who made it? Monarchs, crowned heads, lords, or emperors? No, it was none of these. The Constitution of the United States, the nearest approach of mortal to perfect political wisdom, was the work of men who purchased liberty with their blood; but who found, that, without organization, freedom was not a blessing. They framed it, and the people, in their intelligence, adopted it. And what has been its history for forty years? Has it trodden down any man's rights? Has it circumscribed the liberty of the press? Has it stopped the mouth of any man? Has it held us up as objects of disgrace abroad? How much the reverse! It has given us character abroad; and when, with Washington at its head, it went forth to the world, this young country at once became the most interesting and imposing in the circle of civilized nations. How is the Constitution of the United States regarded abroad? Why, as the last hope of liberty among men! Wherever you go, you find the United States held up as an example by the advocates of freedom. The mariner no more looks to his compass or takes his departure by the sun, than does the lover of liberty abroad shape his course by reference to the Constitution of the United States.

I feel that it is not for me, still less for those who are farther advanced in life than I am, to come effectually to the rescue of this Constitution: the YOUNG MEN of the country are at this moment its main hope. Youth is generous: its patriotism is free from selfishness: it is full of just and ardent impulses: and these are feelings that become it. Early manhood is sanguine: men at this stage of existence have a long life before them, and they naturally feel a deep interest in events which are to influence their whole future career. May we, then, not flatter ourselves that these young men will lay it at heart to preserve this great patrimony? If they are careless of their *personal* patrimony, we call them wasteful; but what shall we call them if they throw from them this pearl of great price—the Constitutional liberty of their country? It is for the young men, then, to direct their attention to the preservation of that patrimony, the like of which no other young men can boast; a patrimony which neither kings nor potentates can bequeath to their offspring; and which the present possessors have received at

the price of their fathers' blood. If it be necessary to success (continued Mr. Webster), politics must be made the business of our lives; must be our daily occupation. Is a neighbor in error, we must instruct and enlighten him. I will not attempt to conceal from you that I feel a more than common interest—more than the interest of a stranger—in the sentiments and course of the citizens of this State. I cannot feel alien to it, or forget that it was amidst the beautiful scenery of these hills that I first drew breath—that, by the kindness of revered and excellent parents, I here received my education—here entered upon the pursuits of manhood—and that, by the kindness of my friends in this State, I was first introduced into public life. I cannot, then, if I would, tear myself from the sincerest wishes and regard for the happiness and welfare of the citizens of this State. I may not again have an opportunity of addressing so large an assembly of my friends in New Hampshire; and it is of little importance whether or not I continue in political life; but permit me to assure you that, wherever I go, I shall continue to cherish a firm attachment to the State of my nativity, and a grateful sense of the kindness now and heretofore bestowed upon me.

Mr. Webster concluded by offering the following toast, and sat down amidst loud and long-continued applause.

"Our native State, rich in revolutionary merit, she will yet be found occupying her true place in support of the Constitution, Liberty, and the Laws."

ARGUMENT

IN THE GOODRIDGE CASE.

This argument was addressed to a jury in April, 1817, on the occasion of the trial of Levi and Laban Kenniston, in the Supreme Judicial Court of the Commonwealth of Massachusetts, held at Ipswich, in the County of Essex, for an alleged assault and robbery by said Levi and Laban, in company with one Reuben Taber (who was tried separately), on the person of Major Elijah Putnam Goodridge, of Bangor, in the District of Maine. The crime was alleged to have been committed upon the evening of the 19th of December, 1816, when the said Goodridge was travelling in Newbury; and it was also charged in the indictment that he was robbed, at that time, and by these men, of a large sum of money in bank-bills and gold. It was stated by the solicitor-general (the Hon. Daniel Davis), in opening the cause on the part of the Government, that he expected to prove, in substantiating these charges, that the prisoners were, during the afternoon previous to the robbery, at Newburyport, within a short distance of the place where the robbery was alleged to have been committed; that they were seen that evening under very suspicious circumstances; and that, since that time, on a thorough search in the dwelling-house of the Kennistons (at Ipswich), there had been found papers, and bills, and gold coin, which Goodridge could identify, and had identified, to be his, and which, it was said, had been taken from him at the time of the robbery. To this would be added their agitation, and partial confessions, when charged with the crime. It is unnecessary to set forth the evidence introduced on either side, as it will sufficiently appear from the following argument of the counsel. Mr. Webster was connected, in the defence, with Samuel L. Knapp, Esq., of Boston, and Stephen W. Marston, Esq., of Newburyport.

It was true (Mr. Webster said) that the offence charged was not capital; but perhaps this could hardly be considered as favorable to the defendants. To those who are guilty, and without hope of escape, no doubt the lightness of the penalty of transgression gives consolation. But if the defendants were innocent, it was more natural for them to be thinking upon what they had lost, by that alteration of the law which had left highway robbery no longer capital, than upon what the guilty might gain by it. They had lost those great privileges, in their trial, which the law allows, in capital cases, for the protection of innocence against unfounded accusation. They have lost the right of being previously furnished with a copy of the indictment, and a list of the Government's witnesses. They

have lost the right of peremptory challenge; and, notwithstanding the prejudices which they know have been excited against them, they must show legal cause of challenge, in each individual call, or else take the jury as they find it. They have lost the benefit of the assignment of counsel by the court. They have lost the benefit of the Commonwealth's process to bring in witnesses in their behalf. When to these circumstances it was added that they were strangers, in a great degree without friends, and without the means for preparing their defence, it was evident they must take their trial under great disadvantages.

Mr. Webster then called the attention of the jury to those circumstances which he thought could not but cast doubts on the story of the prosecutor.

In the first place, it was impossible to believe a robbery of this sort to have been committed by three or four men without previous arrangement and concert, and of course without the knowledge of the fact, that Goodridge would be there, and that he had money. They did not go on the highway, in such a place, in a cold December's night, for the general purpose of attacking the first passenger, running the chance of his being somebody who had money. It was not easy to believe that a gang of robbers existed, that they acted systematically, communicating intelligence to one another, and meeting and dispersing as occasion required, and that this gang had their head-quarters in such a place as Newburyport: no town is more distinguished for the correctness of the general habits of its citizens; and it is of such a size that every man in it may be known to all the rest. The pursuits, occupations, and habits of every person within it are within the observation of his neighbors. A suspicious stranger would be instantly observed, and all his movements could be easily traced. This is not the place to be the general rendezvous of a gang of robbers. Offenders of this sort hang on the skirts of great cities. From the commission of their crimes they hasten into the crowd, and hide themselves in the populousness of great cities. If it were wholly improbable that a gang existed in such a place for the purpose of general plunder, the next inquiry was, Was there any reason to think that there had been a special or particular combination, for the single purpose of robbing the prosecutor? Now, it was material to observe, that not only was there no evidence of any such combination, but also that circumstances did exist which rendered it next to impossible that the defendants could have been parties to such a combination, or even that they could have any knowledge of the existence of any such man as Goodridge, or that any person, with money, was expected to come from the Eastward, and to be near Essex bridge, at or about 9 o'clock that evening.

One of the defendants had been for some weeks in Newburyport—the other passed the bridge from New Hampshire, at 12 o'clock, on the 19th. At this time, Goodridge had not yet arrived at Exeter, twelve or fourteen miles from the bridge. How, then, could either of the defendants know that he was coming? Besides, he says that nobody knew, on the road, that he had money, as far as he knows, and nothing happened till he reached Exeter, according to his account, from which it might be conjectured that he carried money. Here, as he relates it, it became known that he had pistols; and he must wish you to infer, that the plan to rob him was laid here, at Exeter, by some of the persons who inferred that he had money from his being armed. Who were these persons? Certainly not the defendants, or either of them. Certainly not Taber. Certainly not Jackman. Were they persons of suspicious character? Was he in a house of a suspicious character? On this point he gives us no information: He has either not taken the pains to inquire, or he chooses not to communicate the result of his inquiries. Yet nothing could be more important, since he seems compelled to lay the scene of the plot against him at Exeter, than to know who the persons were that he saw, or that saw him, at that place. On the face of the facts now proved, nothing could be more improbable than that the plan of robbery was concerted at Exeter. If so, why should those who concerted send forward to Newburyport to engage the defendants, especially as they did not know that they were there? What should induce any persons so suddenly to apply to the defendants to assist in a robbery? There was nothing in their personal character or previous history that should induce this.

Nor was there time for all this. If the prosecutor had not lingered on the road, for reasons not yet discovered, he must have been in Newburyport long before the time at which he states the robbery to have been committed. How, then, could any one expect to leave Exeter, come to Newburyport, fifteen miles, there look out for and find out assistants for a highway robbery, and get back two miles to a convenient place for the commission of the crime? That any body should have undertaken to act thus, was wholly improbable; and in point of fact there is not the least proof of any body's travelling, that afternoon, from Exeter to Newburyport, or of any person who was at the tavern at Exeter having left it that afternoon. In all probability, nothing of this sort could have taken place without being capable of detection and proof. In every particular the prosecutor has wholly failed to show the least probability of a plan to rob him having been laid at Exeter.

But how comes it, that Goodridge was near or quite four hours and a half in travelling a distance which might have been travelled

n two hours or two hours and a half? He says he missed his way, and went the Salisbury road. But some of the jury know, that this could not have delayed him more than five or ten minutes. It would be well to be able to give some better account of this delay.

Failing, as he seems to do, to create any belief that a plan to rob him was fixed at Exeter, the prosecutor goes back to Alfred, and says he saw there a man whom Taber resembles. But Taber is proved to have been at that time, and at the time of the robbery, in Boston. This is proved beyond question. It is so certain, that the solicitor has *non prossed* the indictment against him.

There is an end, then, of all pretence of the adoption of a scheme of robbery at Alfred: this leaves the prosecutor altogether unable to point out any manner in which it should become known that he had money, or in which a design to rob him should originate.

It was next to be considered whether the prosecutor's story was either natural or consistent. But, in the threshold of the inquiry, every one puts the question, What motive had the prosecutor to be guilty of the abominable conduct of feigning a robbery? It is difficult to assign motives. The jury did not know enough of his character or circumstances. Such things had happened, and might happen again. Suppose he owed money in Boston, and had it not to pay? Who knows how high he might estimate the value of a plausible apology? Some men have also a whimsical ambition of distinction. There is no end to the variety of modes in which human vanity exhibits itself. A story of this nature excites the public sympathy. It attracts general attention. It causes the name of the prosecutor to be celebrated as a man who has been attacked, and, after a manly resistance, overcome by robbers, and who has renewed his resistance, as soon as returning life and sensation enabled him, and, after a second conflict, has been quite subdued, beaten and bruised out of all sense and sensation, and finally left for dead on the field. It is not easy to say how far such motives, trifling and ridiculous as most men would think them, might influence the prosecutor, when connected with any expectation of favor or indulgence, if he wanted such, from his creditors. It was to be remembered, that he probably did not see all the consequences of his conduct, if his robbery be a pretence. He might not intend to prosecute any body. But he probably found, and indeed there is evidence to show, that it was necessary for him to do something to find out the authors of the alleged robbery. He manifested no particular zeal on this subject. He was in no haste. He appears rather to have been pressed by others to do that which we should suppose he would be most earnest to do, the earliest moment.

But could he so seriously wound himself?—could he or would he shoot a pistol bullet through his hand, in order to render the robbery probable, and to obtain belief in his story? All exhibitions are subject to accidents. Whether they are serious or farcical, they may, in some particulars, not proceed exactly as they are designed to do. If we knew that this shot through the hand, if made by himself, must have been intentionally made by himself, it would be a circumstance of greater weight. The bullet went through the sleeve of his coat. He might intend it should have gone through nothing else. It was quite certain he did not receive this wound in the way he described. He says he was pulling or thrusting aside the robber's pistol, and while his hand was on it, it was fired, and the contents passed through his hand. This could not have been so, because no part of the contents went through the hand, except the ball. There was powder on the sleeve of his coat, and from the appearance one would think the pistol to have been three or four feet from the hand when fired. The fact of the pistol bullet being fired through the hand, is doubtless a circumstance of weight. It may not be easy to account for it; but it is to be weighed with other circumstances.

It was most extraordinary, that, in the whole case, the prosecutor should prove hardly any fact in any way but by his own oath. He chooses to trust every thing on his own credit with the jury. Had he the money with him, which he mentions? If so, his clerks or persons connected with him in business must have known it; yet no witness is produced. Nothing can be more important than to prove that he had the money. Yet he does not prove it. Why should he leave this essential fact without further support? He is not surprised with this defence—he knew what it would be. He knew that nothing could be more important than to prove that in truth he did possess the money which he says he lost; yet he does not prove it. All that he saw, and all that he did, and every thing that occurred to him until after the alleged robbery, rests solely on his own credit. He does not see fit to corroborate any fact by the testimony of any witness. So he went to New York to arrest Jackman. He did arrest him. He swears positively that he found in his possession papers which he lost at the time of the robbery; yet he neither produces the papers themselves, nor the persons who assisted in the search.

In like manner he represents his intercourse with Taber at Boston. Taber, he says, made certain confessions. They made a bargain for a disclosure or confession on one side, and a reward on the other. But no one heard these confessions except Goodridge himself. Taber now confronts him, and pronounces this part of his story to be wholly false; and there is nobody who can support the prosecutor.

A jury cannot too seriously reflect on this part of the case. There are many most important allegations of fact, which, if true, could easily be shown by other witnesses, and yet are not so shown.

How came Mr. Goodridge to set out from Bangor, armed in this formal and formidable manner? How came he to be so apprehensive of a robbery? The reason he gives is completely ridiculous. As the foundation of his alarm, he tells a story of a robbery which he had heard of, but which, as far as appears, no one else ever heard of; and the story itself is so perfectly absurd, it is difficult to resist the belief that it was the product of his imagination at the moment. He seems to have been a little too confident that an attempt would be made to rob him. The manner in which he carried his money, as he says, indicated a strong expectation of this sort. His gold he wrapped in a cambric cloth, put it into a shot bag, and then into his portmanteau. One parcel of bills, of a hundred dollars in amount, he put into his pocket-book—another, of somewhat more than a thousand dollars, he carried next his person, underneath all his clothes. Having disposed of his money in this way, and armed himself with two good pistols, he set out from Bangor. The jury would judge whether this extraordinary care of his money, and this formal arming of himself to defend it, did not appear a good deal suspicious.

He stated that he did not travel in the night; that he would not so much expose himself to robbers. He said that, when he came near Alfred, he did not go into the village, but stopped a few miles short, because night was coming on, and he would not trust himself and his money out at night. He represents himself to have observed this rule constantly and invariably until he got to Exeter. Yet, when the time came for the robbery, he was found out at night. He left Exeter about sunset, intending to go to Newburyport, fifteen miles distant, that evening. When he is asked how this should happen, he says he had no fear of robbers after he left the District of Maine. He thought himself quite safe when he arrived at Exeter. Yet he told the jury, that at Exeter he thought it necessary to load his pistol afresh. He asked for a private room at the inn. He told the persons in attendance that he wished such a room for the purpose of changing his clothes. He charged them not to suffer him to be interrupted. But he says his object was not to change his dress, but to put new loading into his pistol. What sort of a story was this?

He says he now felt himself out of all danger from robbers, and was therefore willing to travel at night. At the same time, he thought himself in very great danger from robbers, and therefore took the utmost pains to keep his pistols well loaded and in good order. To account for the pains he took about loading his pistols at Exeter, he says it was his invariable practice, every

day after he left Bangor, to discharge and load again one or both of his pistols; that he never missed doing this; that he avoided doing it at the inns, lest he should create suspicion, but that he did it, while alone, on the road, every day.

How far this was probable the jury would judge. It would be observed that he gave up his habits of caution as he approached the place of the robbery. He then loaded his pistols at the tavern, where persons might and did see him; and he then also travelled in the night. He passed the bridge over Merrimack river a few minutes before nine o'clock. He was now at a part of his progress where he was within the observation of other witnesses, and something could be known of him besides what he told of himself. Immediately after him passed the two persons with their wagons—Shaw and Keyser. Close upon them followed the mail stage. Now, these wagons and the stage must have passed within three rods, at most, of Goodridge, at the very time of the robbery. They must have been very near the spot, the very moment of the attack; and if he was under the robbers' hands as long as he represents, or if they staid on the spot long enough to do half what he says they did do, they must have been there when the wagons and the stage passed. At any rate, it is next to impossible, by any computation of time, to put these carriages so far from the spot, as that the drivers should not have heard the cry of murder, which he says he raised, or the report of the two pistols, which he says were discharged. In three quarters of an hour, or an hour, he returned, and repassed the bridge.

The jury would next naturally look to the appearances exhibited on the field, after the robbery. The portmanteau was there. The witnesses say, that the straps which fastened it to the saddle had been neither cut nor broken. They were carefully unbuckled. This was very considerate for robbers. It had been opened, and its contents were scattered about the field. The pocket-book, too, had been opened, and many papers it contained found on the ground. Nothing valuable was lost but money. The robbers did not think it well to go off at once with the portmanteau and the pocket-book. The place was so secure, so remote, so unfrequented —they were so far from the highway—at least one full rod—there were so few persons passing, probably not more than four or five then in the road, within hearing of the pistols and the cries of Goodridge—there being, too, not above five or six dwelling-houses, full of people, within the hearing of the report of a pistol;—these circumstances were all so favorable to their safety, that the robbers sat down to look over the prosecutor's papers, carefully examined the contents of his pocket-book and portmanteau, and took only the things which they needed! There was money belonging to other persons. The robbers did not take it. They found out it

was not the prosecutor's, and left it. It may be said to be favorable to the prosecutor's story, that the money which did not belong to him, and the plunder of which would seem to be the most probable inducement he could have to feign a robbery, was not taken. But the jury would consider whether this circumstance did not bear quite as strong the other way, and whether they can believe that robbers could have left this money either from accident or design.

The robbers, by Goodridge's account, were extremely careful to search his person. Having found money in his portmanteau and in his pocket-book, they still forthwith stripped him to the skin, and searched until they found the sum which had been so carefully deposited under his clothes. Was it likely, that, having found money in the places where it is ordinarily carried, robbers should proceed to search for more, where they had no reason to suppose more would be found? Goodridge says that no person knew of his having put his bills in that situation. On the first attack, however, they proceeded to open one garment after another, until they penetrated to the treasure, which was beneath them all.

The testimony of Mr. Howard was material. He examined Goodridge's pistol, which was found on the spot, and thinks it had not been fired at all. If this be so, it would follow that the wound through the hand was not made by this pistol; but, then, as the pistol was then discharged, if it had not been fired, he is not correct in swearing that he fired it at the robbers, nor could it have been loaded at Exeter, as he testified.

In the whole case, there was nothing perhaps more deserving consideration, than the prosecutor's statement of the violence which the robbers used towards him. He says he was struck with a heavy club, on the back part of his head. He fell senseless to the ground. Three or four rough-handed ruffians then dragged him to the fence, and through it or over it, with such force as to break one of the boards. They then plundered his money. Presently he came to his senses; perceived his situation; saw one of the robbers sitting or standing near: he valiantly sprung upon, and would have overcome him, but the ruffian called out for his comrades, who returned, and all together they renewed their attack upon, subdued him, and redoubled their violence. They struck him heavy blows; they threw him violently to the ground; they kicked him in the side; they choked him; one of them, to use his own words, jumped upon his breast. They left him only when they supposed they had killed him. He went back to Pearson's, at the bridge, in a state of delirium, and it was several hours before his recollection came to him. This is his account. Now, in point of fact, it was certain that on no part of

his person was there the least mark of this beating and wounding. The blow on the head, which brought him senseless to the ground, neither broke the skin, nor caused any tumor, nor left any mark whatever. He fell from his horse on the frozen ground, without any appearance of injury. He was drawn through or over the fence with such force as to break the rail, but not at all to leave any wound or scratch on him. A second time, he is knocked down, kicked, stamped upon, choked, and in every way abused and beaten till sense had departed, and the breath of life hardly remained; and yet no wound, bruise, discoloration, or mark of injury, was found to result from all this. Except the wound in his hand, and a few slight punctures in his left arm, apparently made with his own penknife, which was found open on the spot, there was no wound or mark which the surgeons, upon repeated examinations, could any where discover. This was a story not to be believed. No matter who tells it, it is so impossible to be true, that all belief is set at defiance. No man can believe it. All this tale of blows which left no marks, and of wounds which could not be discovered, must be the work of imagination. If the jury could believe that he was robbed, it was impossible they should or could believe his account of the manner of it.

With respect, next, to delirium. The jury had heard the physicians. Two of them had no doubt it was all feigned. Dr. Spofford had spoken in a more qualified manner, but it was very evident his opinion agreed with theirs. In the height of his raving, the physician who was present said to others, that he could find nothing the matter of the man, and that his pulse was perfectly regular. But consider the facts which Dr. Balch testifies. He suspected the whole of this illness and delirium to be feigned. He wished to ascertain the truth. While he or others was present, Goodridge appeared to be in the greatest pains and agony from his wounds. He could not turn himself in bed, nor be turned by others, without infinite distress. His mind, too, was as much disordered as his body. He was constantly raving about robbery and murder. At length the physicians and others withdrew, and left him alone in the room. Dr. Balch returned softly to the door, which he had left partly open, and there he had a full view of his patient, unobserved by him. Goodridge was then very quiet. His incoherent exclamations had ceased. Dr. Balch saw him turn over in bed without inconvenience. Pretty soon he sat up in bed, and adjusted his neckcloth and his hair. Then, hearing footsteps on the staircase, he instantly sunk into the bed again; his pains all returned, and he cried out against robbers and murderers as loud as ever. Now, these facts are all sworn to by an intelligent witness, who cannot be mistaken in them—a respectable physician, whose veracity or accuracy is in

no way impeached or questioned. After this, it was difficult to retain any good opinion of the prosecutor. Robbed or not robbed, this was his conduct; and such conduct necessarily takes away all claim to sympathy and respect. The jury would consider whether it did not also take away all right to be believed in any thing. For if they should be of opinion that in any one point he had intentionally misrepresented facts, he could be believed in nothing. No man was to be convicted on the testimony of a witness whom the jury had found wilfully violating the truth in any particular.

The next part of the case was, the conduct of the prosecutor, in attempting to find out the robbers, after he had recovered from his illness. He suspected Mr. Pearson, a very honest, respectable man, who keeps the tavern at the bridge. He searched his house and premises. He sent for a conjurer to come, with his metallic rods and witch-hazel, to find the stolen money. Goodridge says now, that he thought he should find it, if the conjurer's instruments were properly prepared. He professes to have full faith in the art. Was this folly, or fraud, or a strange mixture of both? Pretty soon after the last search, gold pieces were actually found near Mr. Pearson's house, in the manner stated by the female witness. How came they there? Did the robber deposit them there? That is not possible. Did he accidentally leave them there? Why should not a robber take as good care of his money as others? It is certain, too, that the gold pieces were not put there at the time of the robbery, because the ground was then bare; but when these pieces were found, there were several inches of snow below them. When Goodridge searched here with his conjurer, he was on this spot, alone and unobserved, as he thought. Whether he did not, at that time, drop his gold into the snow, the jury will judge. When he came to this search, he proposed something very ridiculous. He proposed that all persons about to assist in the search should be examined, to see that they had nothing which they could put into Pearson's possession, for the purpose of being found there. But how was this examination to be made? Why, truly, Goodridge proposed that every man should examine himself, and that, among others, he would examine himself, till he was satisfied he had nothing in his pockets, which he could leave at Pearson's, with the fraudulent design of being afterwards found there, as evidence against Pearson. What construction would be given to such conduct?

As to Jackman, Goodridge went to New York and arrested him. In his room he says he found paper coverings of gold, with his own figures on them, and pieces of an old and useless receipt, which he can identify, and which he had in his possession at the time of the robbery. He found these things lying on

the floor in Jackman's room. What should induce the robbers, when they left all other papers, to take this receipt? and what should induce Jackman to carry it to New York, and keep it with the coverings of the gold, in a situation where it was likely to be found, and used as evidence against him?

There was no end to the series of improbabilities growing out of the prosecutor's story.

One thing especially deserves notice. Wherever Goodridge searches, he always finds something; and what he finds, he always can identify and swear to, as being his. The thing found has always some marks by which he knows it. Yet he never finds much. He never finds the mass of his lost treasure. He finds just enough to be evidence, and no more.

These were the circumstances which tended to raise doubts of the truth of the prosecutor's relation. It was for the jury to say, whether it would be safe to convict any man for this robbery, until their doubts should be cleared up. No doubt they were to judge him candidly; but they were not to make every thing yield to a regard to his reputation, or a desire to vindicate him from the suspicion of a fraudulent prosecution.

He stood like other witnesses, except that he was a very interested witness; and he must hope for credit, if at all, from the consistency and general probability of the facts to which he testified. The jury would not convict the prisoners to save the prosecutor from disgrace. He had had every opportunity of making out his case. If any person in the State could have corroborated any part of his story, that person he could have produced. He had had the benefit of full time, and good counsel, and of the Commonwealth's process to bring in his witnesses. More than all, he had had an opportunity of telling his own story, with the simplicity that belongs to truth, if it were true, and the frankness and earnestness of an honest man, if he be such. It was for the jury to say, under their oaths, how he had acquitted himself in these particulars, and whether he had left their minds free of doubt about the truth of his narration.

But if Goodridge were really robbed, was there satisfactory evidence that the defendants had a hand in the commission of this offence? The evidence relied on is the finding of the money in their house. It appeared that these defendants lived together, and, with a sister, constituted one family. Their father lived in another part of the same house, and with his wife constituted another and distinct family. In this house, some six weeks after the robbery, the prosecutor made a search; and the result has been stated by the witnesses. Now, if the money had been passed, or used by the defendants, it might have been conclusive. If found about their persons, it might have been very strong proof.

But, under the circumstances of this case, the mere finding of money in their house, and that only in places where the prosecutor had previously been, was no evidence at all. With respect to the gold pieces, it was certainly true, that they were found in Goodridge's track. They were found only where he had been, and might have put them.

When the sheriff was in the house, and Goodridge in the cellar, gold was found in the cellar. When the sheriff was up stairs, and Goodridge in the rooms below, the sheriff was called down to look for money where Goodridge directed, and there money was found. As to the bill, the evidence is not quite so clear. Mr. Leavitt says he found a bill, in a drawer, in a room in which none of the party had before been; that he thought it an uncurrent or counterfeit bill, and not a part of Goodridge's money, and left it where he found it, without further notice. An hour or two afterward, Upton perceived a bill in the same drawer,—Goodridge being then with or near him,—and called to Leavitt. Leavitt told him that he had discovered that bill before, but that it could not be Goodridge's. The bill was then examined. Leavitt says he looked at it, and saw writing on the back it. Upton says he looked at it, and saw writing on the back of it. He says also that it was shown to Goodridge, who examined it in the same way that he and Leavitt examined it. None of the party at this time suspected it to be Goodridge's. It was then put into Leavitt's pocket-book, where it remained till evening, when it was taken out at the tavern; and then it turned out to be, plainly and clearly, one of Goodridge's bills, and had the name of "James Poor, Bangor," in Goodridge's own hand-writing on the back of it. The first thing that strikes one, in this account, is, Why was not this discovery made at the time? Goodridge was looking for bills, as well as gold. He was looking for Boston bills—for such he had lost. He was looking for ten dollar bills—for such he had lost. He was looking for bills which he could recognize and identify. He would, therefore, naturally be particularly attentive to any writing or marks upon such as he might find. Under these circumstances, a bill is found in the house of the supposed robbers. It is a Boston bill—it is a ten dollar bill—it has writing on the back of it—that writing is the name of his town, and the name of one of his neighbors—more than all, that writing is his own hand-writing!—notwithstanding all this, neither Goodridge, nor Upton, nor the sheriff, examined the bill, so as to see whether it was Goodridge's money. Notwithstanding it so fully resembled, in all points, the money they were looking for, and notwithstanding they also saw writing on the back of it, which, they must know, if they read it, would probably have shown where the bill came from, yet neither of

them did so far examine it as to see any proof of its being Goodridge's. This was hardly to be believed. It must be a pretty strong faith in the prosecutor that could credit this story. In every part of it, it was improbable and absurd. It was much more easy to believe, that the bill was changed. There might have been, and there probably was, an uncurrent or counterfeit bill found in the drawer by Leavitt. He certainly did not at the time think it to be Goodridge's, and he left it in the drawer where he found it. Before he saw it again, the prosecutor had been in that room, and was in or near it when the sheriff was again called in, and asked to put that bill in his pocket-book. How did the jury know, that this was the same bill which Leavitt had before seen? Or, suppose it was—Leavitt carried it to Coffin's; in the evening he produced it, and, after having been handed about for some time among the company, it turned out to be Goodridge's bill, and to have upon it infallible marks of identity. How did the jury know, that a sleight of hand had not changed the bill at Coffin's? It is sufficient to say, the bill might have been changed. It is not certain, that this is the bill which Leavitt first found in the drawer—and this not being certain, it is not proof against the defendants.

Was it not extremely improbable, if the defendants were guilty, that they should deposit the money in the places where it was found? Why should they put it in small parcels in so many places, for no end but to multiply the chances of detection? Why, especially, should they put a doubloon in their father's pocket-book? There is no evidence, nor any ground of suspicion, that the father knew of the money being in his pocket-book. He swears he did not know it. His general character is unimpeached, and there is nothing against his credit. The inquiry at Stratham was calculated to elicit the truth; and, after all, there is not the slightest reason to suspect that he knew that the doubloon was in his pocket-book. What could possibly induce the defendants to place it there? No man can conjecture a reason. On the other hand, if this were a fraudulent proceeding on the part of the prosecutor, this circumstance could be explained. He did not know that the pocket-book, and the garment in which it was found, did not belong to one of the defendants. He was as likely, therefore, to place it there as elsewhere. It was very material to consider that nothing was found in that part of the house which belonged to the defendants. Every thing was discovered in the father's apartments. They were not found, therefore, in the possession of the defendants, any more than if they had been discovered in any other house in the neighborhood. The two tenements, it was true, were under the same roof; but they were not on that account the same tenements: they were as distinct as

any other houses. Now, how should it happen that the several parcels of money should all be found in the father's possession? He is not suspected—certainly there is no reason to suspect him—of having had any hand either in the commission of the robbery, or the concealing of the goods. He swears he had no knowledge of any part of this money being in his house. It is not easy to imagine how it came there, unless it be supposed to be put there by some one who did not know what part of the house belonged to the defendants, and what did not.

The witnesses on the part of the prosecution have testified that the defendants, when arrested, manifested great agitation and alarm; paleness overspread their faces, and drops of sweat stood on their temples. This satisfied the witnesses of the defendants' guilt, and they now state the circumstance, as being indubitable proof. This argument manifests, in those who use it, equal want of sense and sensibility. It is precisely fitted to the feeling and the intellect of a bum-bailiff. In a court of justice it deserves nothing but contempt. Is there nothing that can agitate the frame, or excite the blood, but the consciousness of guilt? If the defendants were innocent, would they not feel indignation at this unjust accusation? If they saw an attempt to produce false evidence against them, would they not be angry? And, seeing the production of such evidence, might they not feel fear and alarm? And have indignation, and anger, and terror, no power to affect the human countenance, or the human frame?

Miserable, miserable, indeed, is the reasoning which would infer any man's guilt from his agitation, when he found himself accused of a heinous offence; when he saw evidence, which he might know to be false and fraudulent, brought against him; when his house was filled, from the garret to the cellar, by those whom he might esteem as false witnesses; and when he himself, instead of being at liberty to observe their conduct and watch their motions, was a prisoner in close custody in his own house, with the fists of a catch-poll clenched upon his throat.

The defendants were at Newburyport the afternoon and evening of the robbery. For the greater part of the time, they show where they were and what they were doing. Their proof, it is true, does not apply to every moment. But, when it is considered that, from the moment of their arrest, they have been in close prison, perhaps they have shown as much as could be expected. Few men, when called on afterwards, can remember, and fewer, still, can prove, how they have passed every half hour of an evening. At a reasonable hour they both came to the house where Laban had lodged the night before. Nothing suspicious was observed in their manners or conversation. Is it probable they would thus come unconcernedly into the company of others, from a field

of robbery, and, as they must have supposed, of murder, before they could have ascertained whether the stain of blood was not on their garments? They remained in the place a part of the next day. The town was alarmed; a strict inquiry was made of all strangers, and of the defendants among others. Nothing suspicious was discovered. They avoided no inquiry, nor left the town in any haste. The jury had had an opportunity of seeing the defendants. Did their general appearance indicate that hardihood which would enable them to act this cool, unconcerned part? Was it not more likely they would have fled?

From the time of the robbery to the arrest, five or six weeks, the defendants had been engaged in their usual occupations. They are not found to have passed a dollar of money to any body. They continued their ordinary habits of labor. No man saw money about them, nor any circumstance that might lead to a suspicion that they had money. Nothing occurred tending in any degree to excite suspicions against them. When arrested, and when all this array of evidence was made against them, and when they could hope in nothing but their innocence, immunity was offered them again if they would confess. They were pressed, and urged, and allured, by every motive which could be set before them, to acknowledge their participation in the offence, and to bring out their accomplices. They steadily protested that they could confess nothing, because they knew nothing. In defiance of all the discoveries made in their house, they have trusted to their innocence. On that, and on the candor and discernment of an enlightened jury, they still relied.

If the jury were satisfied, that there was the highest improbability that these persons could have had any previous knowledge of Goodridge, or been concerned in any previous concert to rob him; if their conduct that evening and the next day was marked by no circumstances of suspicion; if, from that moment until their arrest, nothing appeared against them; if they neither passed money, nor are found to have had money; if the manner of the search of their house, and the circumstances attending it, excite strong suspicions of unfair and fraudulent practices; if, in the hour of their utmost peril, no promises of safety could draw from the defendants any confessions affecting themselves or others,—it would be for the jury to say whether they could pronounce them guilty.

SPEECH

IN THE SENATE OF THE UNITED STATES, JANUARY 12, 1835, ON THE BILL GRANTING INDEMNITY TO CITIZENS OF THE UNITED STATES FOR FRENCH SPOLIATIONS ON AMERICAN COMMERCE PRIOR TO 1800.

Mr. Webster said, that, before proceeding to the discussion of the bill, he felt it to be his duty to take notice of an occurrence such as did not ordinarily draw from him any remarks in his place in the Senate. Some time last March, said Mr. Webster, there appeared in a newspaper published at Albany, in the State of New York, a letter purporting to have been written to the editor, from Washington, in which the writer charged me with having a direct personal interest in these claims. I am ashamed to say, that this letter was written by a member of Congress. The assertion, like many others which I have not felt it to be my duty to take any notice of, was wholly and entirely false and malicious. I have not the slightest interest in these claims, or any one of them. I have never been conferred with or retained by any one, or spoken to as counsel for any of them, in the course of my life. No member of the Senate is more entirely free from any personal connection with the claims than I am. It has been the pleasure of the Senate, on several occasions, to place me on a committee to which these petitions have been referred. I have, on those occasions, examined the subject, with a desire to acquit myself conscientiously, by exercising my best judgment upon the claims, as questions of mere right and justice.

At the last session, an honorable member of the Senate, now in a public capacity at St. Petersburg, introduced a bill for the relief of the petitioners, and moved the appointment of a committee, declining himself to be a member of that committee. Without any wish of mine, and, indeed, without my knowledge,—for I was not then in the city,—the Senate was pleased to place me at the head of that committee. I thought it my duty, then, to introduce the bill which is now again under consideration.

This, said Mr. Webster, is no party question: it involves no party principles; affects no party interests; seeks no party ends or objects; and as it is a question of private right and justice, it would be flagrant wrong and injustice to attempt to give to it, any

where, the character of a party measure. The petitioners, the sufferers under the French spoliations, belong to all parties. Gentlemen of distinction, of all parties, have at different times maintained the justice of the claim. The present bill is intended for the equal relief of all sufferers; and if the measure shall become a party measure, I, for one, shall not pursue it. It will be wiser to leave it till better auspices shall appear.

The question, Sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the Government and the petitioners; and, as the Government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate, which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French Government, effectually released the claims as against France, and forever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own Government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effect of its own proceedings on private right, and private interests, with that candor and justice which belong to its high character.

It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty, by which the claimants say their claims on France for these captures and confiscations were released, was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee, of which a distinguished member from Virginia, not now living (Mr. Giles), was chairman.

In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion, of that state, was chairman, made a report, declaring that the committee was of opinion that the Government of the United States was bound to indemnify the claimants. But at this time our affairs with the European powers at war had become exceedingly embarrassed; our Government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration

of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

Another objection, Sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation; and it is now holden by these purchasers. It has even been said, I think, on the floor of the Senate, that nine tenths, or ninety hundredths, of all the claims, are owned by speculators.

Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty; and he could not support the treaty, because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest,—an interest, in regard to which we are in danger of being seriously embroiled with a foreign state,—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

In regard to both classes, and to all classes of claims of American citizens on foreign governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath, and be proved by the papers, vouchers, and other evidence. Now, Sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

The truth is, Sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where

such owner is dead; underwriters, who have paid losses, on account of captures and confiscations; and creditors of insolvents and bankrupts, who were interested in the claims,—these are the descriptions of persons, who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the claims, which are the subject of this discussion, and provided for in this bill. In some instances, claims have been assigned, from one to another, in the settlement of family affairs. They have been transferred, in other instances, to secure or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth, than that they have been the general subjects of purchase and sale, and that they are now holden mainly by purchasers from the original owners. They have been compared to the unfunded debt. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value, but the amount, is uncertain. Whether there be any claim, is, in each case, a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say, that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to insurance companies, or other underwriters, is at war with the first principles of justice.

A short but accurate general view of the history and character

of these claims, is presented in the report of the Secretary of State, on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, Sir, to read the paragraphs :—

"The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility, to the American sufferers from French spoliations, which the convention of 1800 extinguished, on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"The second article of the convention of 1800 was in the following words :—'The ministers plenipotentiary of the two parties not being able to agree at present, respecting the treaty of alliance of 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate farther on these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"When that convention was laid before the Senate, it gave its consent and advice, that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted :—'It is agreed that the present convention shall be in force for the term of eight years, from the time of the exchange of the ratifications;' and it was accordingly so ratified by the President of the United States, on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause, as part of it :—'The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm, the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article : *Provided that, by this retrenchment, the two states renounce the respective pretensions which are the object of the said article.*'

"The French ratification, being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States, consid-

ering it necessary again to submit the convention, in this state, to the Senate, on the 19th day of December, 1801, it was resolved by the Senate, that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions, was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance, of the 6th February, 1778, by which they were bound, forever, to guaranty, from that time, the then possessions of the crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

"The fifth article of the amendments to the Constitution provides—'nor shall private property be taken for public use without just compensation.' If the indemnities to which citizens of the United States were entitled for French spoliations, prior to the 30th September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the Constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed, of an ultimate recovery from France of the amount due for those indemnities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful considera-

tion, that repeated and urgent appeals have been in vain made to the justice of France, for satisfaction of flagrant wrongs committed upon property of other citizens of the United States, subsequent to the period of 30th September, 1800."

Before the interference of our Government with these claims, they constituted just demands against the Government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated, is property as clearly as the ship itself. It may not be so valuable, or so certain; but it is as clear a right, and has been uniformly so regarded by the courts of law. The papers show American citizens had claims against the French Government for six hundred and fifteen vessels, unlawfully seized and confiscated. If this were so, it is difficult to see how the Government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French Government had been ready to make compensation, in money, for the property thus illegally seized and confiscated; or how the Government could appropriate to itself the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, without making compensation, any more than it could appropriate to itself, without making compensation, six hundred and fifteen ships which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that Government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

It will be perceived at once, Sir, that these claims do not rest on the ground of any neglect or omission, on the part of the Government of the United States, in demanding satisfaction from France. That is not the ground. The Government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the Government of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition

that the United States would postpone or relinquish these claims. And, to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the Government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

This, Sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own Government. And now, Sir, before proceeding to the disputed part of the case, permit me to state what is admitted.

In the first place, then, it is universally admitted that these petitioners once had just claims against the Government of France, on account of these illegal captures and condemnations.

In the next place, it is admitted, that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is forever discharged from all duty of paying or satisfying them, in whole or in part.

These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions:—

1. That these claims subsisted against France up to the time of the treaty of September, 1800, between France and the United States.

2. That they were released, surrendered, or extinguished, by that treaty, its amendment in the Senate, and the manner of its final ratification.

3. That they were thus released, surrendered, or extinguished, for political and national considerations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

4. That the amount or measure of indemnity, proposed by this bill, is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

1. Were these subsisting claims against France, up to the time of the treaty? It is a conclusive answer to this question to say, that the Government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French Government fully admitted their existence, and acknowledged its obligation to make such indemnity.

The negotiation, which terminated in the treaty, was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which was immediately acceded to by the ministers of France.

On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray, say—

"Citizen Ministers: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission—an object which they believe may be best obtained by avoiding to retrace minutely the too well known, and too painful, incidents which have rendered a negotiation necessary.

"To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries, which must essentially contribute to their mutual advantage.

"Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken."

To this letter the French ministers immediately returned the following answer:—

"The ministers plenipotentiary of the French Republic have read attentively the proposition for a plan of negotiation, which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"They think that the first object of the negotiation ought to be the determination of the regulations, and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens; and that the second object is, to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them."

It is certain, therefore, that the negotiation commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and it is equally clear that, throughout the whole negotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the treaty itself, in the second article, expressly admitted their existence, and solemnly recognized the duty of providing for them at some future period.

It will be observed, Sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for

individual claims, bring forward, also, claims *arising under treaties;* taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French ministers at present only to show that, from the first, the French Government admitted its obligation to indemnify individuals who had suffered wrongs and injuries.

The honorable member from New York (Mr. WRIGHT) contends, Sir, that, at the time of concluding the treaty, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument sake, that war had existed, yet we find that, on the restoration of amity, both parties admit the justice of these claims, and their continued existence; and the party against which they are preferred acknowledges her obligation, and expresses her willingness, to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of a war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbitration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange, indeed, to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France, from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims for indemnity for illegal seizures and confiscations.

The honorable member, Sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, Sir, to say, that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, Sir, that, whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed

resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, did never authorize general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names, claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France, and obtained restoration, in our courts, as citizens of France. It must have been a singular war, Sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States did not take justice into their own hands.

The strongest measure, perhaps, adopted by Congress, was the act of May 28, 1798. The honorable member from New York has referred to this act, and chiefly relies upon it, to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

It is not an act declaring war; it is not an act authorizing reprisals; it is not an act, which, in any way, acknowledges the actual existence of war. Its whole implication and import is the other way. Its title is, "An act more effectually to protect the commerce and coasts of the United States."

This is its preamble:—

"Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation; therefore,"—

And then follows its only section, in these words:—

"Sec. 1. *Be it enacted, &c.* That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel, of any citi-

zen or citizens of the United States, which may have been captured by any such armed vessel."

This act, it is true, authorized the use of force, under certain circumstances, and for certain objects, against French vessels. But there may be acts of authorized force; there may be assaults; there may be battles; there may be captures of ships, and imprisonment of persons,—and yet no general war. Cases of this kind may occur under that practice of *retortion* which is justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels, hovering on our coast, and capturing our vessels, under authority, *or pretence of authority*, from a foreign state, might be captured and brought in, and vessels already seized by them retaken. The act is limited to *armed* vessels; but why was this, if general war existed? Why was not the naval power of the country let loose, at once, if there were war, against the commerce of the enemy? The cruisers of France were preying on our commerce: if there was war, why were we restrained from general reprisals on her commerce? This restraining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our coast, for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts, passed at and near the same time, demonstrate the understanding of Congress to have been, that, although the relations between the two countries were greatly disturbed, yet that war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New York lays so much stress, as proving the actual existence of war with France, Congress passed another act, entitled "An act authorizing the President of the United States to raise a provisional army;" and the first section declared, that the President should be authorized, "*in the event of a declaration of war against the United States, or of actual invasion over their territory, by a foreign power, or of imminent danger of such invasion*, to cause to be enlisted," &c., ten thousand men.

On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry, and six troops of light dragoons, "to be enlisted for and during *the continuance of the existing differences between the United States and the French Republic*, unless sooner discharged," &c.

The following spring, by the act of the 2d March, 1799, entitled "An act giving *eventual* authority to the President of the United States to augment the army," Congress provided that it should be lawful for the President of the United States, *in case war should break out between the United States and a foreign European power*, &c., to raise twenty-four regiments of infantry, &c. And in the act for better organizing the army, passed the next day, Congress repeats the declaration contained in a former act, that certain provisions shall not take effect *unless war shall break out between the United States and some European prince, potentate, or state.*

On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army, and this last act declared, that further enlistments should be suspended until the further order of Congress, *unless, in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war should break out between the United States and the French Republic, or imminent danger of invasion of their territory by the said republic, should be discovered.*

On the 14th of May, 1800, four months before the conclusion of the treaty, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops raised under the provisions of the previous laws. No commentary is necessary, Sir, on the texts of these statutes, to show that Congress never recognized the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes, commencing in 1798, running through 1799, and ending in 1800, with the actual existence of war between the two countries, at any period within those years.

The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here, again, it seems to me, an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed, suspending the commercial intercourse between the United States and France, each *for one year*. Did any government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and of course subjects all vessels found so engaged, with their cargoes, to capture and condemnation, as enemy's property. The first of these laws was passed June 13th, 1798; the last, February 27, 1800. Will the honorable member from New York tell us when the war commenced? When did it break out? When did those "differences," of which the acts of Congress

speak, assume a character of general hostility? Was there a state of war on the 13th of June, 1798, when Congress passed the first non-intercourse act? and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace, in June, 1798? And if so, I ask again, At what time, after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endangered, disturbed, agitated peace; but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it, by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. And as many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

As little did the Executive Government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States, and the refusal of indemnity by the Government of France, proceed to say—"This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; *but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France*, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce."

It is equally clear, on the other hand, that neither the French Government, nor the French ministers, acted on the supposition that war had existed between the two nations. And it was for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the treaty, the ministers pleni-

potentiary of the French Republic write thus to Messrs. Ellsworth, Davie, and Murray: "In the first place, they will insist upon the principle already laid down in their former note, viz. that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which has existed for some time between France and the United States, by the act of some agents, rather than by the will of the respective Governments, *has not been a state of war*, at least on the side of France."

Finally, Sir, the treaty itself—what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that "differences" have arisen between the two states, and that they have therefore respectively appointed their plenipotentiaries, and given them full powers to treat upon those "differences," and to terminate the same.

But the second article of the treaty, as negotiated and agreed on by the ministers of both Governments, is, of itself, a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war; since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two Governments, not being able to agree on them at present, will negotiate further on them, at convenient time thereafter. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American Executive Government, to the language of our ministers, to the declarations of the French Government, and the French ministers, or to the unequivocal language of the treaty itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

If the treaty had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was postponed, would have had no just claim on their own Government. But the treaty did not remain in this state. This second article was stricken out by the Senate; and in order to see the obvious motive of the Senate, in thus striking out the second article, allow me to read the whole article. It is in these words:—

"The ministers plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce, of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until

they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

The article thus stipulating to make the claims of France, under the old treaties, matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the treaty in this corrected form. France ratified the treaty, as thus amended, with the further declaration, that, by thus retrenching the second article, the two nations *renounce the respective pretensions which were the object of the article.* In this declaration of the French Government, the Senate afterwards acquiesced; so that the Government of France, by this retrenchment, agreed to renounce *her* claims, under the treaties of 1778, and the United States, in like manner, renounced the claims *of their citizens*, for indemnities due to them.

And this proves, Sir, the second proposition which I stated, at the commencement of my remarks, viz. that these claims were released, relinquished, or extinguished by the amendment of the treaty, and its ratification, as amended. It is only necessary to add, on this point, that these claims for captures, before 1800, would have been good claims under the late treaty with France, and would have come in for a dividend in the fund provided by that treaty, if they had not been released by the treaty of 1800. And they are now excluded from all participation in the benefit of the late treaty, because of such release or extinguishment by that of 1800.

In the third place, Sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released, by the Government of the United States, on national considerations, and for objects in which these claimants had no more interest than any other citizens.

Now, Sir, I do not feel called on to make out, that the claims and complaints of France against the Government of the United States were well founded. It is certain, that she put forth such claims and complaints, and insisted on them to the end. It is certain, that, by the treaty of alliance of 1778, the United States did guaranty to France her West India possessions. It is certain, that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain, that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the Government. For the violation of these treaties, she claimed indemnity from the Government of the United States. Without

admitting the justice of these pretensions, the Government of the United States found them extremely embarrassing, and they authorized our ministers in France to *buy them off by money.*

For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this:—

France admitted that citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the Government of the United States.

She would not satisfy our citizens till our Government agreed to satisfy her. Finally, a treaty is ratified, by which the claims on both sides are renounced.

The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment, by France, of her claims against our Government. And who can doubt it? Look to the negotiation. The claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to. The claims on both sides are there reserved together; and look to the Senate's amendment, and to the subsequent declaration of the French Government, acquiesced in by the Senate; and there *the claims on both sides are renounced together.* What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New York. If the United States did not agree to renounce these claims, in consideration that France would renounce hers, what *was* the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subjects of so much previous controversy, and at one time so near being the cause of open war—did the Government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

And, on the other hand, let me ask, Was it for nothing that France relinquished, what she had so long insisted on, the obligation of the United States to fulfil the treaties of 1778? For the extinguishment of this obligation we had already offered her a large sum of money, which she had declined. Was she now willing to give up, without any equivalent?

Sir, the whole history of the negotiation is full of proof that the

individual claims of our citizens, and the Government claims of France against the United States, constituted the respective *demands* of the two parties. They were brought forward together, discussed together, insisted on together. The French ministers would never consent to disconnect them. While they admitted, in the fullest manner, the claims on our side, they maintained, with persevering resolution, the claims on the side of France. It would fatigue the Senate were I to go through the whole correspondence, and show, as I could easily do, that, in every stage of the negotiation, these two subjects were kept together. I will only refer to some of the more prominent and decisive parts.

In the first place, the general instructions which our ministers received from our own Government, when they undertook the mission, directed them to insist on the claims of American citizens against France—to propose a joint board of commissioners—to state those claims—and to agree to refer the complaints of France, for infringements of the treaty of commerce, to the same board. I will read, Sir, so much of the instructions as comprehend these points.

"First. At the opening of the negotiation, you will inform the French ministers, that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal, when contrary to the law of nations, generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce, of the sixth of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force.

"Second. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a board of commissioners, similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain.

"As the French Government have heretofore complained of infringements of the treaty of amity and commerce by the United States, or their citizens, all claims for injuries, thereby occasioned to France or its citizens, are to be submitted to the same board; *and whatever damages they award, will be allowed by the United States, and deducted from the sums awarded to be paid by France.*"

Now, Sir, suppose this board had been constituted, and suppose that it had made awards against France, in behalf of citizens of the United States, and had made awards also in favor of the Government of France against the Government of the United States; and then these last awards had been deducted from the amount of the former, and the property of citizens thus applied to discharge the public obligations of the country,—would any body doubt that such citizens would be entitled to indemnity? And are they less entitled, because, instead of being first liquidated and ascertained, and then set off, one against the other, they are finally agreed to be set off against each other, and mutually relinquished in the lump?

Acting upon their instructions, it will be seen that the American ministers made an actual offer to suspend the claim for indemnities, till France should be satisfied as to her political rights under the treaties. On the 15th of July, they made this proposition to the French negotiators:—

"Indemnities to be ascertained, and secured, in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, to the exclusion of their enemies."

This, it will be at once seen, was a direct offer to suspend the claims of our own citizens, till our Government should be willing to renew to France the obligation of the treaty of 1778. Was not this an offer to make use of private property for public purposes?

On the eleventh of August, the French plenipotentiaries thus write to the ministers of the United States:—

"The propositions which the French ministers have the honor to communicate to the ministers plenipotentiary of the United States, are reduced to this simple alternative:—

"Either the ancient treaties, with the privileges resulting from priority, and a stipulation of reciprocal indemnities;

"Or a new treaty, assuring equality, *without indemnity*."

In other words, this offer is, "If you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports, which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our especial privileges, under the former treaties, and agree to a new treaty,

which shall only put us on a footing of equality with Great Britain, our enemy."

On the 20th of August, our ministers propose, that the former treaties, so far as they respect the rights of privateers, shall be renewed, but that it shall be optional with the United States, by the payment, within seven years, of three millions of francs, either in money *or in securities issued by the French Government for indemnities to our citizens*, to buy off this obligation, or to buy off *all* its political obligations, under both the old treaties, by payments in like manner of *five* millions of francs.

On the 4th of September, the French ministers submit these propositions:—

"A commission shall regulate the indemnities, which either of the two nations may owe to the citizens of the other.

"The indemnities which shall be due by France to the citizens of the United States shall be paid for by the United States, *and in return for which France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guaranty of the 11th article of the treaty of alliance.*"

The American ministers considered these propositions as inadmissible. They, however, on their part, made an approach to them, by proposing in substance, that it should be left optional with the United States, on the exchange of the ratification, to relinquish the indemnities, and in that case, the old treaties not to be obligatory on the United States, so far as they conferred exclusive privileges on France. This will be seen in the letter of the American ministers of the 5th of September.

On the 18th of September, the American ministers say to those of France—

"It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:—

"1st. The ministers plenipotentiary of the respective parties, not being able at present to agree respecting the former treaties and indemnities, the parties will, in due and convenient time, further treat on those subjects; and until they shall have agreed respecting the same, the said treaties shall have no operation."

This, the Senate will see, is substantially the proposition which was ultimately accepted, and which formed the second article of the treaty. By that article, these claims, on both sides, were post-

poned for the present; and afterwards, by other acts of the two Governments, they were mutually and forever renounced and relinquished.

And now, Sir, if any gentleman can look to the treaty, look to the instructions under which it was concluded, look to the correspondence which preceded it, and look to the subsequent agreement of the two Governments to renounce claims, on both sides, and not admit that the property of these private citizens has been taken to buy off embarrassing claims of France on the Government of the United States, I know not what other or further evidence could ever force that conviction on his mind.

I will conclude this part of the case, by showing you how this matter was understood by the American Administration, which finally accepted the treaty, with this renouncement of indemnities. The treaty was negotiated in the administration of Mr. Adams. It was amended in the Senate, as already stated, and ratified on the third day of February, 1801, Mr. Adams being still in office. Being thus ratified, with the amendment, it was sent back to France, and on the 31st day of July, the First Consul ratified the treaty, as amended, by striking out the second article, but accompanied the ratification with this declaration—"PROVIDED THAT BY THIS RETRENCHMENT THE TWO STATES RENOUNCE THEIR RESPECTIVE PRETENSIONS, WHICH ARE THE OBJECT OF THE SAID ARTICLE."

With this declaration appended, the treaty came back to the United States. Mr. Jefferson had now become President, and Mr. Madison was Secretary of State. In consequence of the declaration of the French Government, accompanying its ratification of the treaty, and now attached to it, Mr. Jefferson again referred the treaty to the Senate, and, on the 19th of December, 1801, the Senate resolved that they considered the treaty as duly ratified. Now, Sir, in order to show what Mr. Jefferson and his administration thought of this treaty, and the effect of its ratification, in its then existing form, I beg leave to read an extract of an official letter from Mr. Madison to Mr. Pinkney, then our minister in Spain. Mr. Pinkney was at that time negotiating for the adjustment of our claims on Spain; and, among others, for captures committed within the territories of Spain, by French subjects. Spain objected to these claims, on the ground that the United States had claimed redress of such injuries from France. In writing to Mr. Pinkney (under date of Feb. 6, 1804), and commenting on this plea of Spain, Mr. Madison says—"The plea on which it seems the Spanish Government now principally relies, is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States.

This plea did not appear in the early objections of Spain to our claims. It was an after-thought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other.

"The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority; Spain therefore is answerable for them. To her we have looked, and continue to look, for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust, is a question between her and France; not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release."

Certainly, Sir, words could not have been used which should more clearly affirm that these individual claims, these private rights of property, had been applied to public uses. Mr. Madison here declares, unequivocally, that these claims had been admitted by France; that they were relinquished by the Government of the United States; that they were relinquished for a valuable consideration; that that consideration was a correspondent release of the United States from certain claims on them; and that the whole transaction was a bargain between the two Governments. This, Sir, be it remembered, was little more than two years after the final promulgation of the treaty; it was by the Secretary of State, under that administration which gave effect to the treaty in its amended form; and it proves beyond mistake, and beyond doubt, the clear judgment which that administration had formed upon the true nature and character of the whole transaction.

I have said nothing, Sir, of the Louisiana treaty, because neither that treaty, nor any thing done under it, affects this question in the slightest degree. Great mistakes, I am aware, have existed on this point. The honorable member from New York (Mr. WRIGHT) candidly acknowledged that he himself had partaken in this misapprehension; but as he, and others who have opposed the bill, admit that the Louisiana treaty is not connected with this subject at all, I will not detain the Senate with remarks upon it. Suffice it to say, that the demands, provided for by that treaty, were only certain debts, arising in contract, or due for detention of vessels by

embargo, and for certain vessels, not condemned at the date of the treaty of 1800, and that none of them arose from illegal captures and condemnations. And the Senate will see, that, to avoid all ambiguity on that point, this bill expressly excludes from its provisions all claims which were paid, in whole or in part, under that treaty.

It only remains to show the reasonableness of the amount which the bill proposes to distribute. And this, it must be admitted, can only be fixed by estimate, and this estimate may be formed in various ways. So far as can be learned from official reports, there are something more than six hundred vessels, with their cargoes, which will be supposed to form claims under this bill. Some of them, it is probable, may not be good claims; but a very great majority of that number will be, no doubt, just and fair cases.

Then, the question is, What may be regarded as a just average value of each vessel and cargo? And this question is answered, in a manner as satisfactory as the nature of the case allows, By ascertaining the average value of vessels and cargoes, for which compensation has been awarded under the treaty with Spain. That average was 16,800 dollars for each vessel and cargo; and, taking the cases coming under this bill to be of the same average value, the whole amount of loss would exceed ten millions of dollars, without interest.

On this estimate, it seems not unreasonable to allow the sum of five millions, in full satisfaction for all claims. There is no ground to suppose that the claimants will receive, out of this sum, a greater rate of indemnity than claimants have received who had claims against Spain, or than other claimants against France, whose claims have not been relinquished, because arising since 1800, will receive, under the provisions of the late French treaty.

Mr. President, I have performed the duty of explaining this case to the Senate, as I understand it. I believe the claims to be as just as were ever presented to any government. I think they constitute an honest and well-founded debt, due by the United States to these claimants—a debt which, I am persuaded, the justice of the Government, and the justice of the country, will, one day, both acknowledge and honorably discharge.

SPEECH

ON THE APPOINTING AND REMOVING POWER, DELIVERED IN THE SENATE OF THE UNITED STATES, ON THE 16TH OF FEBRUARY, 1835, ON THE PASSAGE OF THE BILL ENTITLED "AN ACT TO REPEAL THE FIRST AND SECOND SECTIONS OF THE ACT TO LIMIT THE TERM OF SERVICE OF CERTAIN OFFICERS THEREIN NAMED."

Mr. Webster said, the professed object of this bill was the reduction of executive influence and patronage. I concur (said Mr. Webster) in the propriety of that object. Having no wish to diminish or to control, in the slightest degree, the Constitutional and legal authority of the presidential office, I yet think that the indirect and vastly-increasing influence which it possesses, and which arises from the power of bestowing office, and of taking it away again at pleasure, and from the manner in which that power seems now to be systematically exercised, is productive of serious evils.

The extent of the patronage, springing from this power of appointment and removal, is so great, that it brings a dangerous mass of private and personal interest into operation in all great public elections and public questions. This is a mischief which has reached, already, an alarming height. The principle of republican governments, we are taught, is public virtue; and whatever tends either to corrupt this principle, to debase it, or to weaken its force, tends, in the same degree, to the final overthrow of such governments. Our representative systems suppose, that, in exercising the high right of suffrage, the greatest of all political rights, and in forming opinions on great public measures, men will act conscientiously, under the influence of public principle and patriotic duty; and that, in supporting or opposing men or measures, there will be a general prevalence of honest, intelligent judgment and manly independence. These presumptions lie at the foundation of all hope of maintaining governments entirely popular. Whenever personal, individual, or selfish motives influence the conduct of individuals on public questions, they affect the safety of the whole system. When these motives run deep and wide, and come in serious conflict with higher, purer, and more patriotic purposes, they greatly endanger that system; and all will admit that, if their extent become general and overwhelming, so that all public

principle is lost sight of, and every election becomes a mere scramble for office, the system inevitably must fall. Every wise man, in and out of government, will endeavor, therefore, to promote the ascendency of public virtue and public principle, and to restrain, as far as practicable, in the actual operation of our institutions, the influence of selfish and private interests.

I concur with those who think, that, looking to the present, and looking also to the future, and regarding all the probabilities of what is before us, as to the qualities which shall belong to those who may fill the executive chair, it is important to the stability of Government, and the welfare of the people, that there should be a check to the progress of official influence and patronage. The unlimited power to grant office, and to take it away, gives a command over the hopes and fears of a vast multitude of men. It is generally true, that he who controls another man's means of living, controls his will. Where there are favors to be granted, there are usually enough to solicit for them; and when favors, once granted, may be withdrawn at pleasure, there is ordinarily little security for personal independence of character. The power of giving office thus affects the fears of all who are in, and the hopes of all who are out. Those who are *out* endeavor to distinguish themselves by active political friendship, by warm personal devotion, by clamorous support of men in whose hands is the power of reward; while those who are *in* ordinarily take care that others shall not surpass them in such qualities, or such conduct, as is most likely to secure favor. They resolve not to be outdone in any of the works of partisanship. The consequence of all this is obvious. A competition ensues—not of patriotic labors; not of rough and severe toils for the public good; not of manliness, independence, and public spirit—but of complaisance, of indiscriminate support of executive measures, of pliant subserviency and gross adulation. All throng and rush together to the altar of man-worship; and there they offer sacrifices, and pour out libations, till the thick fumes of their incense turn their own heads, and turn, also, the head of him who is the object of their idolatry.

The existence of parties in popular governments is not to be avoided; and if they are formed on Constitutional questions, or in regard to great measures of public policy, and do not run to excessive length, it may be admitted that, on the whole, they do no great harm. But the patronage of office, the power of bestowing place and emoluments, creates parties, not upon any principle, or any measure, but upon the single ground of personal interest. Under the direct influence of this motive, they form round a leader, and they go for "the spoils of victory." And if the party chieftain becomes the national chieftain, he is still but too apt to consider all who have opposed him as enemies to be punished, and

all who have supported him as friends to be rewarded. Blind devotion to party, and to the head of a party, thus takes place of the sentiments of generous patriotism and a high and exalted sense of public duty.

Let it not be said, Sir, that the danger from executive patronage cannot be great, since the persons who hold office, or can hold office, constitute so small a portion of the whole people.

In the first place, it is to be remembered that patronage acts, not only on those who actually possess office, but on those also who expect it, or hope for it; and in the next place, office-holders, by their very situation, their public station, their connection with the business of individuals, their activity, their ability to help or to hurt according to their pleasure, their acquaintance with public affairs, and their zeal and devotion, exercise a degree of influence out of all proportion to their numbers.

Sir, we cannot disregard our own experience. We cannot shut our eyes to what is around us and upon us. No candid man can deny that a great, a very great change has taken place, within a few years, in the practice of the executive government, which has produced a corresponding change in our political condition. No one can deny that office, of every kind, is now sought with extraordinary avidity, and that the condition, well understood to be attached to every officer, high or low, is indiscriminate support of executive measures, and implicit obedience to executive will. For these reasons, Sir, I am for arresting the further progress of this executive patronage, if we can arrest it. I am for staying the further contagion of this plague.

The bill proposes two measures. One is to alter the duration of certain offices, now limited absolutely to four years; so that the limitation shall be qualified or conditional. If the officer is in default; if his accounts are not settled; if he retains or misapplies the public money,—information is to be given thereof, and thereupon his commission is to cease. But if his accounts are all regularly settled; if he collects and disburses the public money faithfully,—then he is to remain in office, unless, for some other cause, the President sees fit to remove him. This is the provision of the bill. It applies only to certain enumerated officers, who may be called accounting officers; that is to say, officers who receive and disburse the public money. Formerly, all these officers held their places at the pleasure of the President. If he saw no just cause for removing them, they continued in their situations, no fixed period being assigned for the expiration of their commissions. But the act of 1820 limited the commissions of these officers to four years. At the end of four years, they went out, without any removal, however well they may have conducted, or however useful to the public their further continuance in office might be.

They might be nominated again, or might not; but their commissions expired.

Now, Sir, I freely admit that considerable benefit has arisen from this law. I agree that it has, in some instances, secured promptitude, diligence, and a sense of responsibility. These were the benefits which those who passed the law expected from it; and these benefits have, in some measure, been realized. But I think that this change in the tenure of office, together with some good, has brought along a far more than equivalent amount of evil. By the operation of this law, the President can deprive a man of office without taking the responsibility of removing him. The law itself vacates the office, and gives the means of rewarding a friend without the exercise of the power of removal at all. Here is increased power, with diminished responsibility. Here is a still greater dependence, for the means of living, on executive favor, and of course a new dominion acquired over opinion and over conduct. The power of removal is, or at least formerly was, a suspected and odious power. Public opinion would not always tolerate it; and still less frequently did it approve it. Something of character, something of the respect of the intelligent and patriotic part of the community, was lost by every instance of its unnecessary exercise. This was some restraint. But the law of 1820 took it all away. It vacated offices periodically, by its own operation, and thus added to the power of removal, which it left still existing in full force, a new and extraordinary facility for the extension of patronage, influence, and favoritism.

I would ask every member of the Senate, if he does not perceive, daily, effects which may be fairly traced to this cause. Does he not see a union of purpose, a devotion to power, a coöperation in action, among all who hold office, quite unknown in the earlier periods of the Government? Does he not behold, every hour, a stronger developement of the principle of personal attachment, and a corresponding diminution of genuine and generous public feeling? Was indiscriminate support of measures, was unwavering fealty, was regular suit and service ever before esteemed such important and essential parts of official duty?

Sir, the theory of our institutions is plain: it is, that Government is an agency, created for the good of the people; and that every person in office is the agent and servant of the people. Offices are created, not for the benefit of those who are to fill them, but for the public convenience; and they ought to be no more in number, nor should higher salaries be attached to them, than the public service requires. This is the theory. But the difficulty in practice is, to prevent a direct reversal of all this; to prevent public offices from being considered as intended for the use and emolument of those who can obtain them. There is a headlong ten-

dency to this, and it is necessary to restrain it by wise and effective legislation. There is still another, and perhaps a greatly more mischievous result, from extensive patronage in the hands of a single magistrate, and to which I have already incidentally alluded; and that is, that men in office have begun to think themselves mere agents and servants of the appointing power, and not agents of the Government or the country. It is, in an especial manner, important, if it be practicable, to apply some corrective to this kind of feeling and opinion. It is necessary to bring back public officers to the conviction that they belong to the country, and not to any administration, nor to any one man.

The army is the army of the country; the navy is the navy of the country; neither of them is either the mere instrument of the administration for the time being, or of him who is at the head of it. The post-office, the land-office, the custom-house, are, in like manner, institutions of the country, established for the good of the people; and it may well alarm the lovers of free institutions, when all the offices in these several departments are spoken of, in high places, as being but "spoils of victory," to be enjoyed by those who are successful in a contest, in which they profess this grasping of the spoils to have been the object of their efforts.

This part of the bill, therefore, Sir, is a subject for fair comparison. We have gained something, doubtless, by limiting the commissions of these officers to four years. But have we gained as much as we have lost? And may not the good be preserved, and the evil still avoided? Is it not enough to say, that if, at the end of four years, moneys are retained, accounts unsettled, or other duties unperformed, the office shall be held to be vacated, without any positive act of removal?

For one, I think the balance of advantage is decidedly in favor of the present bill. I think it will make men more dependent on their own good conduct, and less dependent on the will of others. I believe it will cause them to regard their country more, their own duty more, and the favor of individuals less. I think it will contribute to official respectability, to freedom of opinion, to independence of character; and I think it will tend, in no small degree, to prevent the mixture of selfish and personal motives with the exercise of high political duties. It will promote true and genuine republicanism, by causing the opinion of the people, respecting the measures of Government, and the men in Government, to be formed and expressed without fear or favor, and with a more entire regard to their true and real merits or demerits. It will be, so far as its effects reach, an auxiliary to patriotism and public virtue, in their warfare against selfishness and cupidity.

The second check on executive patronage, contained in this bill, is of still greater importance than the first. This provision is,

that, whenever the President removes any of these officers from office, he shall state to the Senate the reasons for such removal.

This part of the bill has been opposed, both on Constitutional grounds and on grounds of expediency.

The bill, it is to be observed, expressly recognizes and admits the actual existence of the power of removal. I do not mean to deny, and the bill does not deny, that, at the present moment, the President may remove these officers at will, because the early decision adopted that construction, and the laws have since, uniformly, sanctioned it.

The law of 1820, intended to be repealed by this bill, expressly affirms the power. I consider it, therefore, a settled point; settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute. At the same time, I am very willing to say, that, after considering the question again and again, within the last six years, in my deliberate judgment, the original decision was wrong. I cannot but think that those who denied the power, in 1789, had the best of the argument; and yet I will not say that I know myself so thoroughly as to affirm, that this opinion may not have been produced, in some measure, by that abuse of the power which has been passing before our eyes for several years. It is possible, that this experience of the evil may have affected my view of the Constitutional argument. It appears to me, however, after thorough, and repeated, and conscientious examination, that an erroneous interpretation was given to the Constitution, in this respect, by the decision of the first Congress; and I will ask leave to state, shortly, the reasons for that opinion, although there is nothing in this bill which proposes to disturb that decision.

The Constitution no where says one word of the power of removal from office, except in the case of conviction on impeachment. Wherever the power exists, therefore, except in cases of impeachment, it must exist as a constructive or incidental power. If it exists in the President alone, it must exist in him because it is attached to something else, or included in something else, or results from something else, which is granted to the President. There is certainly no specific grant: it is a power, therefore, the existence of which, if proved at all, is to be proved by inference and argument.

The only instance in which the Constitution speaks of removal from office, as I have already said, it speaks of it as the exercise of *judicial* power; that is to say, it speaks of it as one part of the judgment of the Senate, in cases of conviction on impeachment. No other mention is made, in the whole instrument, of any power of removal. Whence, then, is the power derived to the President?

It is usually said, by those who maintain its existence in the single hands of the President, that the power is derived from that clause of the Constitution which says, "The executive power shall be vested in a President." The power of removal, they argue, is, in its nature, an executive power; and, as the executive power is thus vested in the President, the power of removal is necessarily included.

It is true, that the Constitution declares, that the executive power shall be vested in the President; but the first question which then arises is, *What is executive power? What is the degree, and what are the limitations?* Executive power is not a thing so well known, and so accurately defined, as that the written Constitution of a limited government can be supposed to have conferred it in the lump. What *is* executive power? What are its boundaries? What model, or example, had the framers of the Constitution in their minds, when they spoke of "executive power?" Did they mean executive power as known in England, or as known in France, or as known in Russia? Did they take it as defined by Montesquieu, by Burlamaqui, or by De Lolme? All these differ from one another as to the extent of the executive power of Government. What, then, was intended by "the executive power?" Now, Sir, I think it perfectly plain and manifest, that, although the framers of the Constitution meant to confer executive power on the President, yet they meant to define and limit that power, and to confer no more than they did thus define and limit. When they say it shall be vested in a President, they mean that one magistrate, to be called a President, shall hold the executive authority; but they mean, further, that he shall hold this authority according to the grants and limitations of the Constitution itself.

They did not intend, certainly, a sweeping gift of prerogative. They did not intend to grant to the President, whatever might be construed, or supposed, or imagined to be executive power; and the proof that they meant no such thing, is, that, immediately after using these general words, they proceed, specifically, to enumerate his several distinct and particular authorities; to fix and define them; to give the Senate an essential control over the exercise of some of them, and to leave others uncontrolled. By the executive power conferred on the President, the Constitution means no more than that portion which itself creates, and which it qualifies, limits, and circumscribes.

A general survey of the frame of the Constitution will satisfy us of this. That instrument goes all along upon the idea of dividing the powers of Government, so far as practicable, into three great departments. It describes the powers and duties of these departments in an article allotted to each. As first in importance and dignity, it begins

with the Legislative Department. The first article of the Constitution, therefore, commences with the declaration, that "all legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The article goes on to prescribe the manner in which Congress is to be constituted and organized, *and then proceeds to enumerate, specifically, the powers intended to be granted;* and adds the general clause, conferring such authority as may be necessary to carry granted powers into effect. Now, Sir, no man doubts that this is a limited legislature; that it possesses no powers but such as are granted by express words or necessary implication; and that it would be quite preposterous to insist that Congress possessed any particular power, merely because it is, in its nature, a legislative body, if no grant can be found for it in the Constitution itself.

Then comes, Sir, the second article, creating an executive power; and it declares, that "the executive power shall be vested in a President of the United States." After providing for the mode of choosing him, it immediately proceeds to enumerate, specifically, the powers which he shall possess and exercise, and the duties which he shall perform. I consider the language of this article, therefore, precisely equivalent to that in which the legislature is created; that is to say, I understand the Constitution as saying that "the executive power, *herein granted*, shall be vested in a President of the United States."

In like manner, the third article, or that which is intended to arrange the judicial system, begins by declaring that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." But these general words do not show *what extent* of judicial power is vested in the courts of the United States. All that is left to be done, and is done, in the following sections, by express and well-guarded provisions.

I think, therefore, Sir, that very great caution is to be used, and the ground well considered, before we admit that the President derives any distinct and specific power from those general words, which vest the executive authority in him. The Constitution itself does not rest satisfied with these general words. It immediately goes into particulars, and carefully enumerates the several authorities which the President shall possess. The very first of the enumerated powers is the command of the army and navy. This, most certainly, is an executive power. And why is it particularly set down and expressed, if any power was intended to be granted under the general words? This would pass, if any thing would pass, under those words. But enumeration, specification, particularization, was evidently the design of the framers of the Constitu-

tion, in this as in other parts of it. I do not, therefore, regard the declaration that the executive power shall be vested in a President, as being any grant at all; any more than the declaration that the legislative power shall be vested in Congress, constitutes, by itself, a grant of such power. In the one case, as in the other, I think the object was to describe and denominate the department, which should hold, respectively, the legislative and the executive authority; very much as we see, in some of the State Constitutions, that the several articles are headed with the titles "legislative power," "executive power," "judicial power;" and this entitling of the articles with the name of the power, has never been supposed, of itself, to confer any authority whatever. It amounts to no more than naming the departments.

If, then, the power of removal be admitted to be an executive power, still it must be sought for and found among the enumerated executive powers, or fairly implied from some one or more of them. It cannot be implied from the general words. The power of appointment was not left to be so implied: why, then, should the power of removal have been so left? They are both closely connected: one is indispensable to the other: why, then, was one carefully expressed, defined, and limited, and not one word said about the other?

Sir, I think the whole matter is sufficiently plain. Nothing is said in the Constitution about the power of removal, because it is not a separate and distinct power. It is part of the power of appointment, naturally going with it or necessarily resulting from it. The Constitution or the laws may separate these powers, it is true, in a particular case, as is done in respect to the judges, who, though appointed by the President and Senate, cannot be removed at the pleasure of either or of both. So a statute, in prescribing the tenure of any other office, may place the officer beyond the reach of the appointing power. But, where no other tenure is prescribed, and officers hold their places at will, that will is necessarily the will of the appointing power; because the exercise of the power of appointment at once displaces such officers. The power of placing one man in office, necessarily implies the power of turning another out. If one man be Secretary of State, and another be appointed, the first goes out by the mere force of the appointment of the other, without any previous act of removal whatever. And this is the practice of the Government, and has been, from the first. In all the removals which have been made, they have generally been effected simply by making other appointments. I cannot find a case to the contrary. There is no such thing as any distinct official act of removal. I have looked into the practice, and caused inquiries to be made in the departments, and I do not learn that any

such proceeding is known as an entry or record of the removal of an officer from office; and the President could only act, in such cases, by causing some proper record or entry to be made, as proof of the fact of removal. I am aware that there have been some cases, in which notice has been sent to persons in office that their services are, or will be, after a given day, dispensed with. These are usually cases in which the object is, not to inform the incumbent that he is *removed*, but to tell him that a successor either is, or, by a day named, will be appointed. If there be any instances, in which such notice is given, without express reference to the appointment of a successor, they are few; and even in these, such reference must be implied; because in no case is there any distinct official act of removal, as I can find, unconnected with the act of appointment. At any rate, it is the usual practice, and has been from the first, to consider the appointment as producing the removal of the previous incumbent. When the President desires to remove a person from office, he sends a message to the Senate, nominating some other person. The message usually runs in this form: "I nominate A. B. to be collector of the customs, &c. in the place of C. D., removed." If the Senate advise and consent to this nomination, C. D. is effectually out of office, and A. B. is in, in his place. The same effect would be produced, if the message should say nothing of any removal. Suppose A. B. to be Secretary of State, and the President to send us a message, saying, merely, "I nominate C. D. to be Secretary of State." If we confirm this nomination, C. D. becomes Secretary of State, and A. B. is necessarily removed.

I have gone into these details and particulars, Sir, for the purpose of showing, that, not only in the nature of things, but also according to the practice of the Government, the power of removal is incident to the power of appointment. It belongs to it, is attached to it, forms a part of it, or results from it.

If this be true, the inference is manifest. If the power of removal, when not otherwise regulated by Constitution or law, be part and parcel of the power of appointment, or a necessary incident to it, then whoever holds the power of appointment, holds also the power of removal. But it is the President and the Senate, and not the President alone, who hold the power of appointment; and, therefore, according to the true construction of the Constitution, it should be the President and Senate, and not the President alone, who hold the power of removal.

The decision of 1789 has been followed by a very strange and indefensible anomaly, showing that it does not rest on any just principle. The natural connection between the appointing power and the removing power has, as I have already stated, always led

the President to bring about a removal by the process of a new appointment. This is quite efficient for his purpose, when the Senate confirms the new nomination. One man is then turned out, and another put in. But the Senate sometimes *rejects* the new nomination; and what then becomes of the old incumbent? Is he out of office, or is he still in? He has not been turned out by any exercise of the power of appointment, for no appointment has been made. That power has not been exercised. He has not been removed by any distinct and separate act of removal, for no such act has been performed, or attempted. Is he still in, then, or is he out? Where is he? In this dilemma, Sir, those who maintain the power of removal, as existing in the President alone, are driven to what seems to me very near absurdity. The incumbent has not been removed by the appointing power, since the appointing power has not been exercised. He has not been removed by any distinct and independent act of removal, since no such act has been performed.

They are forced to the necessity, therefore, of contending that the removal has been accomplished by the mere *nomination* of a successor; so that the removing power is made incident, not to the appointing power, but to one part of it; that is, to the *nominating* power. The nomination, not having been assented to by the Senate, it is clear, has failed, as the first step in the process of appointment. But, though thus rendered null and void in its main object, as the first process in making an appointment, it is held to be good and valid, nevertheless, to bring about that which *results from an appointment;* that is, the removal of the person actually in office. In other words, the nomination produces the consequences of an appointment, or some of them, though it be itself no appointment, and effects no appointment. This, Sir, appears to me to be any thing but sound reasoning and just construction.

But this is not all. The President has sometimes sent us a nomination to an office already filled, and, before we have acted upon it, has seen fit to withdraw it. What is the effect of such a nomination?—If a *nomination*, merely as such, turns out the present incumbent, then he is out, let what will become afterwards of the nomination. But I believe the President has acted upon the idea that a nomination made, and at any time afterwards withdrawn, does *not* remove the actual incumbent.

Sir, even this is not the end of the inconsistencies into which the prevailing doctrine has led. There have been cases in which nominations to offices already filled have come to the Senate, remained here for weeks, or months, the incumbents all the while continuing to discharge their official duties, and relinquishing their offices only when the nominations of their successors have been confirmed and commissions issued to them; so that, if a nomina-

tion be confirmed, the *nomination itself* makes no removal. The removal, then, waits to be brought about by the *appointment;* but if the nomination be *rejected*, then the *nomination itself*, it is contended, has effected the removal. Who can defend opinions which lead to such results?

These reasons, Sir, incline me strongly to the opinion that, upon a just construction of the Constitution, the power of removal is part of, or a necessary result from, the power of appointment, and, therefore, that it *ought to have been* exercised by the Senate concurrently with the President.

The argument may be strengthened by various illustrations. The Constitution declares that Congress may vest the appointment of inferior officers in the President alone, in the courts of law, or in the heads of departments; and Congress has passed various acts, providing for appointments, according to this regulation of the Constitution. Thus the Supreme Court, and other courts of the United States, have authority to appoint their clerks; heads of departments also appoint their own clerks, according to statute provisions; and it has never been doubted that these courts, and these heads of departments, may remove their clerks at pleasure, although nothing is said in the laws respecting such power of removal. Now, it is evident that neither the courts nor the heads of departments acquire the right of removal under a general grant of executive power, for none such is made to them; nor upon the ground of any general injunction to see the laws executed, for no such general injunction is addressed to them. They, nevertheless, hold the power of removal, as all admit, and they must hold it, therefore, simply, as incident to, or belonging to, the power of appointment. There is no other clause under which they can possibly claim it.

Again; let us suppose that the Constitution had given to the President the power of appointment, without consulting the Senate. Suppose it had said, "The President shall appoint ambassadors, other public ministers, judges of the Supreme Court, and all other officers of the United States." If the Constitution had stood thus, the President would unquestionably have possessed the power of removal, where the tenure of office was not fixed; and no man, I imagine, would, in that case, have looked for the removing power either in that clause which says, the executive authority shall be vested in the President, or in that other clause which makes it his duty to see the laws faithfully executed. Every body would have said, "The President possesses an uncontrolled power of appointment, and that necessarily carries with it an uncontrolled power of removal, unless some permanent tenure be given to the office by the Constitution, or by law."

And now, Sir, let me state, and examine, the main argument, on which the decision of 1789 appears to rest it.

The most plausible reasoning brought forward on that occasion may be fairly stated thus:—"The executive power is vested in the President: this is the general rule of the Constitution: the association of the Senate with the President, in exercising a particular function belonging to the executive power, is an exception to this general rule, and exceptions to general rules are to be taken strictly: therefore, though the Senate partakes of the appointing power, by express provision, yet, as nothing is said of its participation in the removing power, such participation is to be excluded."

The error of this argument, if I may venture to call it so, considering who used it, lies in this. It supposes the power of removal to be holden by the President under the general grant of executive power. Now, it is certain that the power of appointment is not holden under that general grant, because it is particularly provided for, and is conferred, in express terms, on the President and Senate. If, therefore, the power of removal be a natural appendage to the power of appointment, then it is not conferred by the general words, granting executive power to the President, but is conferred by the special clause which gives the appointing power to the President and Senate. So that the spirit of the very rule, on which the argument of 1789, as I have stated it, relies, appears to me to produce a directly opposite result; for, if exceptions to a general rule are to be taken strictly, when expressed, it is still more clear that they are not to be implied, without evident and clear grounds when they are not expressed at all; and as the general power of appointment is confessedly given to the President and Senate, no exception is to be implied in favor of one part of that general power, viz. the removing part, unless for some obvious and irresistible reason. In other words, this argument, which I am answering, is not sound in its premises, and therefore not sound in its conclusion, if the grant of the power of appointment does naturally include also the power of removal, when this last power is not otherwise expressly provided for; because, if the power of removal belongs to the power of appointment, or necessarily follows it, then it has gone with it into the hands of the President and Senate; and the President does not hold it alone, as an implication or inference, from the grant to him of general executive powers.

The true application of that rule of construction, thus relied on, would present the argument, I think, in this form:—"The appointing power is vested in the President and Senate: this is the general rule of the Constitution: the removing power is part of the appointing power: it cannot be separated from the rest, but by supposing an exception was intended; but all exceptions to gen-

eral rules are to be taken strictly, even when expressed; and, for a much stronger reason, they are not to be implied, when not expressed, unless inevitable necessity of construction requires it."

On the whole, Sir, with the diffidence which becomes one who is reviewing the opinions of some of the ablest and wisest men of the age, I must still express my own conviction, that the decision of Congress in 1789, which separated the power of removal from the power of appointment, was founded on an erroneous construction of the Constitution, and that it has led to great inconsistencies as well as to great abuses, in the subsequent, and especially in the more recent, history of the Government.

Much has been said now, and much was said formerly, about the inconvenience of denying this power to the President alone. I agree, that an argument, drawn from this source, may have weight, in a doubtful case; but it is not to be permitted that we shall presume the existence of a power merely because we think it would be convenient. Nor is there, I think, any such glaring, striking, or certain inconvenience, as has been suggested. Sudden removals from office are seldom necessary—we see how seldom, by reference to the practice of the Government under all administrations which preceded the present. And if we look back over the removals which have been made in the last six years, there is no man who can maintain, that there is one case in a hundred, in which the country would have suffered the least inconvenience, if no removal had been made without the consent of the Senate. Party might have felt the inconvenience, but the country never. Many removals have been made (by new appointments) during the sessions of the Senate; and if there has occurred one single case in the whole six years, in which the public convenience required the removal of an officer in the recess, such case has escaped my recollection. Besides, it is worthy of being remembered, when we are seeking for the true intent of the Constitution on this subject, that there is reason to suppose that its framers expected the Senate would be in session a much larger part of the year than the House of Representatives, so that its concurrence could generally be had, at once, on any question of appointment or removal.

But this argument, drawn from the supposed inconvenience of denying an absolute power of removal to the President, suggests still another view of the question. The argument asserts that it must have been the intention of the framers of the Constitution to confer the power on the President, for the sake of convenience, and as an absolutely necessary power in his hands. Why, then, did they leave their intent doubtful? *Why did they not confer the power in express terms?* Why were they thus totally silent on a point of so much importance?

Seeing that the removing power naturally belongs to the appoint-

ing power—seeing that, in other cases, in the same Constitution, its framers have left the one with the consequence of drawing the other after it—if, in this instance, they meant to do what was uncommon and extraordinary, that is to say, if they meant to separate and divorce the two powers, why did they not say so? Why did they not express their meaning in plain words? Why should they take up the appointing power, and carefully define it, limit it, and restrain it, and yet leave an equally important power, which all must admit to be closely connected with it, if not a part of it, to vague inference and loose construction? If others can account for all this silence respecting the removing power, upon any other ground than that the framers of the Constitution regarded both powers as one, and supposed they had provided for them together, I confess I cannot. I have the clearest conviction, that they looked to no other mode of displacing an officer than by impeachment, or by the regular appointment of another person to the same place.

But, Sir, whether the decision of 1789 were right or wrong, the bill before us applies to the actually existing state of things. It recognizes the President's power of removal, in express terms, as it has been practically exercised, independently of the Senate. The present bill does not disturb the power; but I wish not to be understood that the power is, even now, beyond the reach of legislation. I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act, hereafter, upon that question, as I shall think the safety of the Government and of the Constitution may require. The present bill, however, proceeds upon the admission that the power does at present exist. Its words are,

"Sec. 3. *And be it further enacted*, That, in all nominations made by the President to the Senate, to fill vacancies occasioned by the exercise of the President's power to remove the said officers mentioned in the second section of this act, the fact of the removal shall be stated to the Senate, at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed."

In my opinion, this provision is entirely Constitutional, and highly expedient.

The regulation of the tenure of office is a common exercise of legislative authority, and the power of Congress, in this particular, is not at all restrained or limited, by any thing contained in the Constitution, except in regard to judicial officers. All the rest is left to the ordinary discretion of the legislature. Congress may give to offices which it creates (except those of judges) what duration it pleases. When the office is created, and is to be filled,

the President is to nominate the candidate to fill it; but, when he comes into the office, he comes into it upon the conditions and restrictions which the law may have attached to it. If Congress were to declare by law that the Attorney-General, or the Secretary of State, should hold his office during good behavior, I am not aware of any ground on which such a law could be held unconstitutional. A provision of that kind might be unwise, in regard to such officers, but I do not perceive that it would transcend the power of Congress.

If the Constitution had not prescribed the tenure of judicial office, Congress might have thought it expedient to give the judges just such a tenure as the Constitution has itself provided; that is to say, a right to hold during good behavior; and I am of opinion, that such a law would have been perfectly Constitutional. It is by law, in England, that the judges are made independent of the removing power of the crown. I do not think that the Constitution, by giving the power of appointment, or the power both of appointment and removal, to the President and Senate, intended to impose any restraint on the legislature, in regard to its authority of regulating the duties, powers, duration, or responsibility of office. I agree, that Congress ought not to do any thing which shall essentially impair that right of nomination and appointment of certain officers, such as ministers, judges, &c., which the Constitution has vested in the President and Senate. But while the power of nomination and appointment is left fairly where the Constitution has placed it, I think the whole field of regulation is open to legislative discretion. If a law were to pass, declaring that district attorneys, or collectors of customs, should hold their offices four years, unless removed on conviction for misbehavior, no one could doubt its Constitutional validity; because the legislature is naturally competent to prescribe the tenure of office. And is a reasonable check on the power of removal any thing more than a qualification of the tenure of office? Let it be always remembered, that the President's removing power, as now exercised, is claimed and held under the general clause, vesting in him the executive authority. It is implied, or inferred, from that clause alone.

Now, if it is properly derived from that source, since the Constitution does not say how it shall be limited, how defined, or how carried into effect, it seems especially proper for Congress, under the general provision of the Constitution, which gives it authority to pass all laws necessary to carry into effect the powers conferred on any department, to regulate the subject of removal. And the regulation here required is of the gentlest kind. It only provides that the President shall make his reasons for removal of officers of this description known to the Senate, when he does see fit to re-

move them. It might, I think, very justly go farther. It might, and perhaps it ought, to prescribe the form of removal, and the proof of the fact. It might, I think, too, declare, that the President should only suspend officers, at pleasure, till the next meeting of the Senate, according to the amendment suggested by the honorable member from Kentucky; and, if the present practice cannot be otherwise checked, this provision, in my opinion, ought hereafter to be adopted. But I am content with the slightest degree of restraint which may be sufficient to arrest the totally unnecessary, unreasonable, and dangerous exercise of the power of removal. I desire only, for the present at least, that, when the President turns a man out of office, he should give his reasons for it, to the Senate, when he nominates another person to fill the place. Let him give these reasons, and stand on them. If they be fair and honest, he need have no fear in stating them. It is not to invite any trial; it is not to give the removed officer an opportunity of defence; it is not to excite controversy and debate; it is, simply, that the Senate, and ultimately the public, may know the grounds of removal. I deem this degree of regulation, at least, necessary; unless we are willing to submit all these officers to an absolute and a perfectly irresponsible removing power; a power which, as recently exercised, tends to turn the whole body of public officers into partisans, dependants, favorites, sycophants, and man-worshippers.

Mr. President, without pursuing the discussion further, I will detain the Senate only while I recapitulate the opinions which I have expressed; because I am far less desirous of influencing the judgment of others, than of making clear the grounds of my own judgment.

I think, then, Sir, that the power of appointment naturally and necessarily includes the power of removal, where no limitation is expressed, nor any tenure but that at will declared. The power of appointment being conferred on the President *and Senate*, I think the power of removal went along with it, and should have been regarded as a part of it, and exercised by the same hands. I think, consequently, that the decision of 1789, which *implied* a power of removal, separate from the appointing power, was erroneous.

But I think the decision of 1789 has been established by practice, and recognized by subsequent laws, as the settled construction of the Constitution; and that it is our duty to act upon the case accordingly, for the present; without admitting that Congress may not, hereafter, if necessity shall require it, reverse the decision of 1789. I think the legislature possesses the power of regulating the condition, duration, qualification, and tenure of office,

in all cases where the Constitution has made no express provision on the subject.

I am, therefore, of opinion, that it is competent for Congress to declare by law, as one qualification of the tenure of office, that the incumbent shall remain in place till the President shall remove him, for reasons to be stated to the Senate. And I am of opinion that this qualification, mild and gentle as it is, will have *some* effect in arresting the evils which beset the progress of the Government, and seriously threaten its future prosperity.

These are the reasons for which I give my support to this bill.

REMARKS

IN THE SENATE OF THE UNITED STATES, FEBRUARY 26, 1835, ON THE BILL TO REGULATE THE DEPOSITS OF THE PUBLIC MONEY.

Amongst the amendments moved by MR. WEBSTER to the bill, and adopted, was the following additional section, which was also adopted, viz.

"Section 9. That all the warrants or drafts of the Treasurer of the United States, or such as shall be authorized by the Treasury Department, drawn on any deposit bank, shall be payable in gold and silver, if the holder desire to receive the same; and no such warrant, or draft, nor any check, draft, or bill of exchange, given or received in payment thereof, shall be expressed to be payable in 'current bank bills,' or in any other medium than the lawful currency of the country."

On offering this amendment,

MR. WEBSTER said, that, in discussing the provisions and merits of this bill, it was necessary so often to allude to the Bank of the United States, and the withdrawal of the Government deposits from that institution, that he would take occasion to say a few words, and they should be very few, upon that subject. In the first place, he wished to say, that he considered the question of renewing the Bank charter as entirely settled. It could not be renewed. Public opinion, he thought, very unfortunately for the country, had decided against it; and while there was a strong and prevailing sentiment in the minds of the community against a measure, it was quite useless to move such measure. For himself, he should take no part in any attempt to renew the charter of the Bank. The people have decided against its continuance, and it must expire.

Nor should he, if he remained in public life, join in any attempt, at any time hereafter, to establish a new national bank, till experience of its want should have satisfied the country of its great utility or indispensable necessity. That the time would come when the country would feel the fullest conviction of this necessity, he did not doubt; but that conviction, he thought, was likely to be brought about only by experience. If, while he remained here, there should be a general call of the country for a new national institution, he should, of course, be ready to aid in its establishment, on

principles which have been proved to be safe, and with any amendments which experience may have suggested. But, for himself, it was his stated purpose to do nothing more in relation to a national bank, till a decisive lead should be given in that direction by the public opinion.

In the next place, he wished to say, that the "experiment," upon the success of which gentlemen had felicitated themselves, had not, in his opinion, undergone any trial at all. It had been put to no test.

There are two public objects, both of great importance (said Mr. Webster), in the accomplishment of which the Bank of the United States, in my opinion, has been generally successful. I mean the transmission of public funds, and other facilities to the operations of the Treasury, as one of these objects; and a safe, cheap, and admirable system of internal exchanges, as the other. These objects were both attained, by the skilful administration of the Bank, to such a degree as left little or nothing to be wished. By internal exchanges, I intend the whole operation of internal bills of exchange, and the circulation, also, of a paper currency, always safe, founded on solid capital, and every where, in every nook and corner of the country, as well as on the exchanges of the great cities, always of the same value as gold and silver, except, indeed, where the bills of the Bank have been preferred to gold and silver, as being better suited to the purposes of remittance. Now, Sir, it has been predicted, that the State banks, selected as deposit banks, could equally well accomplish all these objects; that they could as readily, and as completely, facilitate the operations of the Treasury; and that they could, and would also, furnish a general currency, as sound and as well accredited; and that they could and would be able to conduct the internal exchanges of commerce as safely and as cheaply. Of all this I have doubted; but the day of argument is passed, and the system now awaits the unerring result of experience. But the time for that experience has not yet arrived. Up to the present moment, the country has enjoyed, and does now enjoy, the benefit of the circulation of the bills of the Bank of the United States. The amount of that circulation is now eighteen or twenty millions, and it is diffused over every part of the country, and abounds, more especially, in those places where it is more particularly needed, and, indeed, is kept there because it is there most needed. Here is a medium of exchange, every where to be had, and to be had without charge. A hundred dollars in gold and silver buy a post-note of the Bank of the United States in New Orleans, or Mobile, or St. Louis, and it is remitted to Philadelphia or New York without danger and without expense. The whole mass of the circulation of the Bank of the United States, therefore, is, at this moment, in active operation, in expediting and

facilitating exchanges, and, indeed, in assisting the operations of the Treasury, and the deposit banks themselves, by affording a medium of universal credits. The present system, therefore, still rests, substantially, on the Bank of the United States.

It is the credit and the circulation of the bills of that Bank, which still sustain the accustomed operations of internal commerce; and the Bank still exercises all that wholesome control over the currency of the country, which it has heretofore done. But the Bank is about to expire. These eighteen or twenty millions must be gradually withdrawn from circulation, though they may come in very slowly, and be drawn very reluctantly, from the hands which hold them; so that the circulation of the bills may more or less continue for a considerable time after the charter shall expire. In this way I have no doubt of its continuance to do good, for some time after its legal existence shall have ceased. There will be no rush for payment of its notes and bills, because there will be no doubt about the sufficiency of the fund. There will be no haste to get rid of them, because they will be better than any other paper, and better than gold and silver.

But the Bank must wind up its affairs; its debts must be collected, and its circulation, after a while, entirely withdrawn. And when this takes place, or begins to take place, then, and not till then, the existing Government "experiment" will begin to be put to the proof. At present, all is fair weather: the question is, How will it be, when it becomes necessary to fill up the void occasioned by withdrawing the bills of the Bank of the United States, by notes of the deposit banks? When these banks shall be brought to rely on their own means, their own credit, and their own facilities; when the substantial succor of a universally-accredited paper currency of twenty millions in amount shall be withdrawn,—then the "experiment" will be put on trial.

It is known, Sir, that I am one of those who believe in the impracticability of an exclusive, or of a general metallic currency. Such a currency is not suited to the age, nor to commercial convenience. The return of the golden age is a dream. There will continue to be banks; and the mass of circulation will be a paper circulation of some kind; and the question will be, whether State institutions, associated together as deposit banks, can furnish a sound and universally accredited circulation.

At present, they are not proved capable of any such thing. If a gentleman here wishes to remit money to New England, or to the Ohio river, he certainly does not send bills of the deposit bank of this District. If a single individual has done that, by way of trying the "experiment," he probably does not repeat the trial; and, at any rate, the example is not generally followed. The deposit banks pay specie, which is, so far, very well; and a person with

a check on one of those banks can obtain specie, and with that specie he can obtain bills of the Bank of the United States; and this is the process he will go through, if he wishes to remit money, in the shape of bank notes, to places at any considerable distance. In fact, that is well known to be the only practice. How this is to be effected, when there shall be no longer notes of the Bank of the United States to be had, remains to be seen.

I have said, Sir, the day of trial has not come, and that all as yet seems clear weather. But I have recently learned some symptoms of approaching squalls. Some little specks of clouds, at least, make their appearance above the horizon. I learn, from authority not to be questioned, that, within the last week or ten days, a Treasury warrant was drawn on a deposit bank in one of the cities, payable in another city. The bank on which the warrant was drawn offered to pay in a check, on a bank in the city where the warrant was payable; and when the check was presented, it was found to be made payable in *current bank notes*. Here, I think, Sir, there is, as I have said, a small cloud darkening the early dawn of the new golden day of our currency. Even so soon as the present hour, Treasury drafts are thus offered to be paid *in current bank notes*. I have very good reason to believe, Sir, that other deposit banks draw their checks, in like manner, *payable in current bank notes*. And I have called the attention of the Senate to these occurrences, not merely to expose the practice, but to correct it also. I wish to stop it at the threshold, by declaring it illegal; and I have prepared a section, which, I trust, the Senate will see the importance of inserting in this bill.

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